

ERIC LARSON 4/8/2019

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MISSOURI
3 EASTERN DIVISION
4
5 MALEEHA AHMAD, ET AL.,)
6 Plaintiffs,)
7 vs.) Case No. 4:17-CV-2455-CDP
8 CITY OF ST. LOUIS,)
9 MISSOURI,)
10 Defendant.)
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16

17 DEPOSITION OF ERIC LARSON
18 TAKEN ON BEHALF OF THE PLAINTIFFS
19 APRIL 8, 2019
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7 vs.) Case No. 4:17-CV-2455-CDP
8 CITY OF ST. LOUIS,)
9 MISSOURI,)
10 Defendant.)

11
12 DEPOSITION OF WITNESS, ERIC LARSON,
13 produced, sworn and examined on the 8th day of
14 April, 2019, between the hours of eight o'clock in
15 the forenoon and six o'clock in the afternoon of
16 that day, at the Office of the St. Louis City
17 Counselor, 1200 Market Street, City Hall, St.
18 Louis, Missouri, before Tara Schwake, a Registered
19 Professional Reporter, Certified Realtime Reporter,
20 Certified Shorthand Reporter (IL), Certified Court
21 Reporter (MO), and Notary Public within and for the
22 State of Missouri.

23
24
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1 APPEARANCES

2

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1 IT IS HEREBY STIPULATED AND AGREED by
2 and between Counsel for Plaintiffs and Counsel for
3 Defendant that this deposition may be taken by Tara
4 Schwake, Notary Public and Certified Realtime
5 Reporter, thereafter transcribed into typewriting,
6 with the signature of the witness being expressly
7 reserved.

8 ERIC LARSON,
9 of lawful age, having been produced, sworn, and
10 examined on the part of Plaintiffs, testified as
11 follows:

12 * * * * *

13 (Deposition commenced at 9:58 a.m.)

14 EXAMINATION

15 QUESTIONS BY MR. PRAISS:

16 Q Good morning.

17 A Good morning.

18 Q My name's Omri Praiss, I'm an
19 attorney with the ACLU and we're here today for a
20 deposition in a case involving -- titled Ahmad
21 versus City of St. Louis.

22 Are you familiar with that case?

23 A I am.

24 Q Could you state your name for the
25 record?

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1 A For the record, my name is Eric
2 Larson.

3 Q And if I refer to you as Mr. Larson,
4 is that okay?

5 A That is fine.

6 Q Have you ever been deposed before?

7 A I have.

8 Q How many times?

9 A At least once that I'm aware of.

10 Q How recently was that?

11 A That has been probably 15 years ago.

12 Q It's been a while.

13 A Yes.

14 Q I'll give you a quick refresher.
15 Basically I'll be asking you a lot of questions
16 today, and we have a court reporter who is
17 transcribing everything. Please let me finish my
18 questions even when you can probably anticipate
19 what I'm going to ask you so that the record is
20 clear. I'll do the same and let you finish your
21 answers before I ask a new question. Is that fair?

22 A It is.

23 Q If at any time I ask you a question
24 today that you don't understand, please ask me to
25 rephrase it. Otherwise, I'm going to assume you

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1 understood my question. Is that acceptable?

2 A That's acceptable.

3 Q Okay. Are you under any medication
4 that impairs your ability to provide truthful and
5 accurate answers today?

6 A I am not.

7 Q And you understand you're under oath?

8 A I do.

9 Q Subject to penalty of perjury?

10 A I do.

11 Q Wonderful. Do you understand that
12 this is a deposition of what's titled a Rule
13 30(b)(6) deposition where you are actually
14 designated as the representative on behalf the City
15 today?

16 A I am aware of that.

17 Q And you're going to be testifying
18 with respect to a series of topics; you understand
19 that?

20 A I do.

21 Q If you don't mind, I'll take a few
22 minutes to get a little bit of background
23 information about yourself, because that may impact
24 your testimony on some topics.

25 MR. DIERKER: Excuse me, I'm sorry to

1 interrupt but I would like to put on the record
2 that originally the plan was that this 30(b)(6)
3 would cover both the Ahmad and the Molina cases and
4 owing to some discovery issues in Molina, this is
5 going forward in the context of Ahmad but my
6 understanding is that topics 4, 5, 8, 9, 10, and 11
7 duplicate topics in the 30(b)(6) notice in the
8 Molina case, and it's our expectation that we will
9 not have to duplicate the testimony in Molina that
10 is being adduced in this case.

11 MR. PRAISS: And I appreciate your
12 comments. I'm not sure this is the right place and
13 I don't want to get into a debate with you. I know
14 there was correspondence between and you Tony
15 Rothert about that issue and I think, as you know,
16 there are still outstanding discovery issues in
17 Molina but I can assure you to the extent, at all
18 possible, we have no intent of duplicating this
19 deposition unnecessarily.

20 MR. DIERKER: I'm confident that you
21 don't but I felt the need to put something on the
22 record.

23 MR. PRAISS: That's fine, but we
24 don't know what additional discovery we will be
25 getting and how that will impact so I can't commit

1 to anything final at this point.

2 MR. DIERKER: I understand.

3 Q (BY MR. PRAISS) Very briefly, give
4 me a summary of your employment background in
5 chronological order if you could.

6 A Since 1994, I have been employed by
7 the St. Louis Metropolitan Police Department.

8 Q And summarize for me a little bit
9 about what positions you have held.

10 A From essentially February 1995, I was
11 commissioned as a police officer. I was a patrol
12 officer in the second district until approximately
13 September of 2004.

14 Q Okay.

15 A When I was transferred to the crime
16 laboratory and began training as a firearm and tool
17 mark examiner. Which I performed until
18 approximately February of 2010, when I was promoted
19 to the rank of sergeant. In 2011, I became the
20 supervisor of the evidence technician unit. In
21 January of 2013, I became the acting laboratory
22 director until June of 2013, when I was promoted to
23 the rank of lieutenant and given the title
24 laboratory director.

25 In September of 2015, I was promoted

1 to the rank of captain and transferred from the
2 laboratory to District 5, where I remained until
3 approximately -- I believe it was August of 2017
4 when I was transferred to the command of
5 investigative services, where I remained until
6 early 2018, I think January 2018, when I was moved
7 to be over planning and research until April of
8 2018 when I was promoted to the rank of major, and
9 I have been the commander/deputy commander of
10 specialized enforcement since that time.

11 Q Congratulation, it's been an amazing
12 career.

13 A Thank you.

14 Q I can ask you a ton of questions on
15 it but I'm going to refrain because I want to focus
16 on the 30(b)(6) but just two I need to understand.

17 In early January of 2018 you said you
18 were transferred to planning and research.

19 A Correct.

20 Q Just explain to me a little bit of
21 what that entails?

22 A Essentially I was moved from
23 investigative services where I was the captain of
24 homicide, bomb and arson, sex crimes, the
25 investigative units of the police department, over

1 to planning and research, which is essentially the
2 departments of research -- planning is responsible
3 for writing special orders, researching policy,
4 preparing our crime numbers for the FBI, and that
5 was -- that was my function.

6 Q And you were in that position for
7 actually a very short time?

8 A For a very short time.

9 Q Okay. And then you were transferred
10 -- you were promoted to major; correct?

11 A Yes.

12 Q And if I understood correctly, you
13 were in charge of specialized enforcement?

14 A I was the commander of specialized
15 enforcement from April of 2018 through December of
16 2018, and then in 2019 I became the deputy
17 commander. We have had several department
18 reorganizations between April of 2017 through
19 December of 2018.

20 Q As deputy commander, it's still over
21 specialized enforcement?

22 A Correct.

23 Q So my question is, what does the term
24 specialized enforcement, what does that entail?

25 A Essentially specialized enforcement

1 are primarily uniformed members of the department
2 who are not in district assignment. So I'm in
3 charge of, as the deputy commander, I report to a
4 colonel, I have a captain that reports to me, but
5 the units are SWAT, K-9, aviation, traffic,
6 commercial motor vehicle inspection, special
7 operations, which relates primarily to anti-crime
8 and auto theft. Our drug enforcement and
9 interdiction units, public transportation, and park
10 rangers. I think that's everybody.

11 **Q Altogether, how many officers report**
12 **to you?**

13 A I think it's somewhere about 96 to a
14 hundred.

15 **Q During the period when you were in**
16 **charge of planning and research the first four**
17 **months of 2018, you mentioned that you were working**
18 **on writing special orders and researching policy?**

19 A To some extent, yes.

20 **Q During that time, did you do any work**
21 **that related in any way to what had occurred in the**
22 **Stockley protests?**

23 A No. Because the Stockley protest is
24 the subject of litigation and so we won't write
25 policy until the litigation is complete or we have

1 some direction from the courts.

2 Q Since the Stockley protests, is it
3 your testimony the City has done -- made no effort
4 to evaluate the current special orders and policies
5 in effect?

6 A No, I would not say that.

7 Q So I misunderstood you. So again,
8 during the time period that you were there, help me
9 understand what efforts were made by the Department
10 of Planning and Research to, I'll broadly
11 characterize as this, to evaluate modifying
12 policies, writing new policies, or looking at
13 lessons learned from the Stockley protest. I'm
14 trying to make is as broad as possible.

15 A If you're trying to make it as broad
16 as possible, we're discussing several areas that
17 are outside the scope of planning and research.
18 Planning and research is an area that generally
19 works at the direction of the Chief of Police or
20 senior command. So a request has to come from that
21 office to the planning and research unit to perform
22 functions related to policy reviews, changes in
23 policy, changes in direction on that. And when
24 we're talking about policy, we're talking about all
25 department policy.

1 So I mean, there's something
2 somewhere along the lines of 3,000 pages of
3 department policy. So to say we have made no
4 changes in policy during that time, I don't believe
5 would be fair. To say that we didn't talk or
6 discuss about things related to protests or protest
7 activity, I can't say we did or I can't say that we
8 did not. We may have, but because of the ongoing
9 litigation, no concrete direction had been
10 determined on which things would need to be
11 modified or not be modified.

12 **Q Let me follow up a little bit. If I**
13 **understood correctly with respect to planning and**
14 **research, you indicate that the Chief of Police**
15 **would have to make a request of the department to**
16 **investigate something?**

17 A Or a senior command, so a colonel,
18 assistant chief.

19 **Q To your knowledge, since September of**
20 **2017, has the Chief of Police made any requests to**
21 **the planning and research group, department, that**
22 **related to the Stockley protests?**

23 A I believe the assistant chief
24 indicated some information which were -- which was
25 related to I believe Judge Perry issued an order

1 related to what we would be allowed to do or not do
2 as far as engaging in the dispersement of
3 individuals during protest activity. The bulk of
4 that information is already incorporated into a
5 special order. That Special Order is 1-01, Section
6 XIII.

7 But as far as any hard policy
8 changes, I can tell you there have been none that
9 have been put into effect.

10 Q And I understand you've told me that
11 now twice, that there hasn't been some changes
12 because of litigation. My question, and I still
13 don't think you answered it, is, to your knowledge,
14 has the Chief of Police or somebody else below him
15 made a specific request of the planning and
16 research department through an email or other
17 communication, saying, I instruct to you
18 investigate and look at policies that in any way
19 relate to what happened in the Stockley protests?

20 A I would say to the best of my
21 knowledge, no.

22 Q Thank you. I appreciate that answer.
23 Mark this.

24 (Plaintiffs' 30(b)(6) Exhibit 1
25 marked for identification by the court reporter.)

1 Q (BY MR. PRAISS) Mr. Larson, you have
2 Exhibit 1?

3 A I do.

4 Q You said something a few seconds ago
5 in your answer that prompted me to think of this
6 exhibit, so I figured I'd just real quickly ask a
7 couple questions about it.

8 Do you see this as an email that was
9 sent on November 16, 2017, by Lawrence O'Toole?

10 A I do.

11 Q And it indicates it has an attachment
12 to it which is the Ahmad Preliminary Injunction, I
13 believe it's referring to the order that was issued
14 by the judge in this case?

15 A Correct.

16 Q Okay. Have you had an opportunity at
17 any time since November of 2017 to review that
18 order?

19 A Let me think. I have -- I obviously
20 received this email because it's directed to the
21 SLMPD. I would have printed and made a copy of
22 this and reviewed it at around the time that it was
23 issued. I had not reviewed this order prior to our
24 deposition. We may have discussed it during
25 settlement meetings that I was a part of.

1 Q Okay. You had mentioned in your
2 testimony referring to the assistant chief
3 providing some communication relating to the
4 injunction entered by the court, preliminary
5 injunction.

6 A Yes.

7 Q Was this the communication you were
8 referring to?

9 A I believe so.

10 Q Okay. And that's what I wanted to
11 confirm. Other than this communication -- strike
12 that.

13 To whom this was communication sent?

14 A It was sent to all members of the
15 SLMPD.

16 Q So all police officers?

17 A If it went to SLMPD.org, it went to
18 all employees of the Metropolitan Police
19 Department.

20 Q Other than this email telling all
21 members of the St. Louis Metropolitan Police
22 Department to familiarize themselves with the order
23 issued by the judge, are you aware of any other
24 steps taken by the St. Louis Metropolitan Police
25 Department to train or inform the police officers

1 of the terms of the injunction?

2 MR. DIERKER: I think I have to
3 object to the form of that question because it
4 could be calling for privileged communications.

5 Q (BY MR. PRAISS) Let me make it clear
6 to you. At no point today do I want you to tell me
7 about communications that attorneys had with you or
8 with police officers; okay? To the extent there
9 are, I'm not interested, I'm not entitled to those.

10 Separate from that, my question is,
11 to your knowledge, other than this one short little
12 email that we have in front us here that was sent
13 on November 16, 2017, are you aware of any other
14 communications or efforts undertaken by the St.
15 Louis Metropolitan Police Department to train
16 police officers with respect to the substance of
17 the preliminary injunction issued by the court in
18 this case?

19 A I am not.

20 (Plaintiffs' 30(b)(6) Exhibit 2
21 marked for identification by the court reporter.)

22 Q (BY MR. PRAISS) Mr. Larson, I hand
23 you what's been marked Exhibit 2, and this is a
24 copy of the Fourth Amended Rule 30(b)(6) Deposition
25 Notice that was issued by us in this case to the

1 City. You're familiar with this exhibit?

2 A I am.

3 Q Obviously, this is the fourth one,
4 which means there was an original one and a first,
5 second, and third, potentially, I assume all of
6 those.

7 Do you recall the first time you saw
8 any form of this depo notice, deposition notice?

9 A I do not recall the first time I saw
10 it. I don't know what version I may have seen, but
11 in preparation for this deposition, I saw and
12 reviewed a 30(b)(6) request.

13 Q When was the first time, your best
14 estimate of when you saw it? Was it yesterday or a
15 month ago? That's what I'm trying to get at.

16 A No, probably November, December.

17 Q Gotcha. Thank you. Did you review
18 it?

19 A I did.

20 Q I think one thing I was going to put
21 on the record also that I believe there is one
22 topic and that's the topic number 3 that has been
23 covered and we do not plan to cover that today,
24 just so you know.

25 If you go to the second page of this

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1 exhibit, do you see there is a heading Relevant
2 Time Period and Definitions?

3 A Okay.

4 Q Can we agree that, you know, when I
5 use the reference "the City of St. Louis," or even
6 just the abbreviation of "the City," that this
7 definition that's here for the City of St. Louis
8 would apply?

9 A Yes.

10 Q Okay. I don't want to keep saying a
11 long, convoluted definition each time. And when I
12 say "Stockley verdict protest," do you agree with
13 the definition that's here; is that acceptable?

14 A Yes.

15 Q And the term "prior protests" that's
16 defined here, can we agree that definition is going
17 to apply today?

18 A Yes.

19 Q And then there's a definition for
20 "chemical agents."

21 Do you see that?

22 A I do.

23 Q Can we agree that definition will
24 apply except in those situations where I make it
25 clear to you that it shouldn't apply?

1 A Yes.

2 Q Okay. There is, at the end of this
3 notice, if you notice, a Request for Production on
4 the last page?

5 Do you see that?

6 A Yes.

7 Q Did you rely on any documents in
8 preparing for today's deposition?

9 A I reviewed documents related to
10 today's deposition.

11 MR. PRAISS: Okay. A question for
12 counsel. Have all of those documents been produced
13 to the plaintiffs in this litigation?

14 MR. DIERKER: To the best of our
15 knowledge, all of the documents on which the
16 witness relied have been produced.

17 MR. PRAISS: Thank you. That's what
18 I need to know.

19 Q (BY MR. PRAISS) And you notice now
20 the deposition notice has -- this Fourth Amended
21 one has 25 different topics?

22 A Yes.

23 Q And you understand that you have been
24 designated as the representative of the City of St.
25 Louis to testify about each of these topics except

1 **for topic 3?**

2 A I do.

3 Q **How many hours in total would you**
4 **estimate you spent preparing for this deposition?**

5 A That's difficult to say. Somewhere
6 between 8 and 16 over the course of several weeks,
7 several months, since November, and I would also
8 indicate that because there are apparently two
9 cases that are very similar, I reviewed a lot of
10 material not all specific to Ahmad. Some were
11 specific to another case.

12 Q **The other case we're referring to,**
13 **Molina?**

14 A Correct.

15 Q **But in total in the past few weeks,**
16 **since the first time you've seen this deposition or**
17 **some prior version, your estimate is between 8 and**
18 **16 hours?**

19 A At least, if not more.

20 Q **Okay. Let me start with trying to**
21 **narrow the universe of people you may have met**
22 **with. Excluding any attorneys, did you meet**
23 **individually with anybody to prepare for today's**
24 **deposition?**

25 A Not outside individuals who are in

1 our law department.

2 Q Let me start with this one. Did you
3 have meetings where attorneys were present?

4 A I did.

5 Q In those meetings, were there any
6 individuals who are not attorneys also present?

7 A Yes.

8 Q Who were those individuals?

9 A I met with Sergeant Charles Wall, who
10 is currently detached to our law department.

11 Q Yes. What does it mean when you say
12 "detached"?

13 A His assignment is temporarily, he is
14 temporarily assigned to the law department from his
15 parent unit, and I'm not sure where that parent
16 unit was.

17 Q Is my understanding correct that he
18 was assigned to the law department to assist in
19 connection with the ongoing litigation?

20 A That is my understanding.

21 Q Other than Charles Wall, can you
22 think of any other individuals you met with in
23 connection with any meetings with attorneys in
24 preparing for today's deposition?

25 A No. They provided materials, I

1 reviewed materials, and we had discussions about
2 those materials.

3 Q So the only non-attorney that you met
4 in preparing for today's deposition is Charles
5 Wall; correct?

6 A As far as I can recall.

7 Q And how long do you think met with
8 Charles Wall?

9 A We had two or three different
10 meetings, probably no more than, total, an hour and
11 a half.

12 Q Okay. Of the 8 to 16 hours that you
13 said you estimate you spent preparing, what
14 percentage of that would you say was meeting with
15 attorneys versus you meeting by yourself?

16 A Probably half and half, perhaps.
17 Maybe a little different -- I spent a lot of time
18 -- obviously, anything counsel forwarded to me for
19 review, I reviewed. So I spent a lot of time
20 reading documents, I refreshed myself with a lot of
21 the material so I would be adequately prepared to
22 discuss these topics.

23 Q Is it fair to say that other than the
24 meetings you have had with attorneys, the meeting
25 with Mr. Charles Wall, and your own efforts, you

1 have done nothing else to prepare for the
2 deposition?

3 A No, not that I'm aware of.

4 Q Let's start, topic number 1, sir.

5 A Okay.

6 Q Topic number 1 states, "The manner by
7 which the City of St. Louis video recorded the
8 Stockley Verdict Protests."

9 Do you see that?

10 A I do.

11 Q As of September 2017, did the City
12 have any rules or requirements relating to video or
13 audio recording of police response to public
14 protests?

15 A Well, I want to make sure I'm
16 answering this as completely as possible. In
17 general, there are several different ways that we
18 document protest activity. When we have a large
19 event, something that we know is going to occur,
20 something like the Stockley protest, we put an
21 operations order into effect.

22 As part of that operations order,
23 there are officers who are assigned as
24 Documentation Team members. Those members will
25 have either still cameras or video cameras at their

1 disposal to record protester and police activity
2 relative to the event being monitored.

3 We also have a Real Time Crime Center
4 that has cameras located throughout the City which
5 may capture incidents on video.

6 We also have an intelligence division
7 that may use video cameras to document certain
8 aspects of their investigation or their monitoring
9 of activities, and I believe in, relative to like
10 the Stockley incident, some members of our Bicycle
11 Response Team may have had cameras.

12 Q I appreciate that and I want to cover
13 that information in greater detail but I still want
14 to go back to my question. Is there something in
15 writing that I'm not aware of that, where the City
16 has laid out specific policies, rules, with respect
17 to video or audio recording of a police response to
18 a public protest?

19 A No, not specifically, other than what
20 we've described in the operations order.

21 Q Okay. As a matter of policy, does
22 the City believe it's important to attempt to video
23 record police response to public protest?

24 A From a matter of policy, we believe
25 it's important to document the activities that we

1 take during these incidents.

2 Q Okay. As a matter of policy, does
3 the City believe it's important to attempt to video
4 record the use of chemical agents by police in
5 response to public protests?

6 A Can you give me that again?

7 Q Sure. As a matter of policy, does
8 the City believe it is important to video record
9 the use of chemical agents by police in response to
10 public protests?

11 A To the best of my knowledge, we have
12 no order that requires us to document by a video
13 the actual deployment of chemical agents.

14 Q Okay. You gave me a list of
15 different ways that the City can video record
16 public protests. You mentioned Documentation Team
17 members; right?

18 A Mm-hmm.

19 Q Realtime Crime Center, the
20 intelligence division, and the Bicycle Team, who
21 may also have cameras; correct?

22 A Correct.

23 Q Are there any others?

24 A Well, insofar as the department
25 issues cameras to patrol supervisors for the

1 documentation of regular type of crime incidents,
2 you know, there's evidence that needs to be
3 recovered, things of that nature, but not -- but
4 that's not specifically related to First Amendment
5 protests.

6 Q Okay. Any other ways?

7 A Not that I'm aware of.

8 Q Does the helicopter have capability
9 to video record?

10 A Yes. The -- well, I take that back.
11 The helicopter has certain technological abilities,
12 I believe recording is one of them but I can't
13 confirm that.

14 Q Has the City at any time considered
15 including some video recording capabilities on the
16 Bear?

17 A The Bear may have its own type of --
18 I'm not intimately familiar with the mechanics of
19 the Bear. I know it has certain ability. I know
20 it has a PA, some other things. I don't know that
21 it has video and, to the best of my knowledge, we
22 haven't ever discussed putting a camera on the
23 Bear.

24 Q Okay. My understanding from the
25 Molina depositions is the Bear does not have any

1 video recording capabilities and I guess my
2 question to you is, from the City's perspective, is
3 there a reason not to include video capability on a
4 Bear that finds itself in positions where it
5 deploys chemical munitions and, as a matter of
6 policy, would be advisable to record those, no
7 different than all the other ways that the City
8 currently uses?

9 A It might be advantageous for us to do
10 that in the future. I don't think there's a
11 deliberate reason we don't have it on there other
12 than it probably isn't equipped with that
13 capability and to equip it with that would be a
14 monetary cost, but it's certainly something I think
15 that's worth looking into.

16 Q Are you aware of anyone suggesting
17 that that be done since the Stockley protest?
18 Let's start with that time period.

19 A No, not to my knowledge, I don't
20 believe so.

21 Q Okay. The first mechanism you
22 mention is the Documentation Team?

23 A Mm-hmm.

24 Q Was the Documentation Team deployed
25 in connection with the Stockley protest?

1 A It was.

2 Q **And did it record events from the**
3 **Stockley protest?**

4 A To the best of my knowledge, it did.
5 And just as a point clarification, there are
6 several Documentation Teams relative to the detail.
7 They are -- each CDT unit is I believe supposed to
8 have a Documentation Team, so we had several out at
9 -- roughly at the same time, doing similar
10 functions.

11 Q **And those members, explain to me**
12 **again what is their purpose when they go out?**

13 A Their purpose is to primarily
14 document police and citizen interaction during the
15 course of a First Amendment protest. They also are
16 responsible for photographing the arresting officer
17 and the arrested subject prior to the arrested
18 subject being transported in the interest of
19 documenting, and then they have a role in the
20 report preparation aspect.

21 Q **You say "report preparation." What**
22 **report are you referring to?**

23 A In general, there is, when incidents
24 transpire and then arrest is made, a police report
25 is prepared, and the Documentation Team participate

1 in that.

2 Q I think you testified that each CDT
3 unit has its own Documentation Team. What is a CDT
4 unit, just to make sure I'm clear?

5 A For clarification, Civil Disobedience
6 Team.

7 Q That's what I assumed but I wanted to
8 make sure.

9 And when you say "unit," what does
10 that mean in connection with a CDT unit?

11 A Oh, in the -- if you -- when
12 reviewing the operations order, you'll see there
13 will be CD Team 1 or CD Team Alpha, and then
14 Evidence Collection Team 1. It just -- or
15 Documentation Team 1. It's just essentially the
16 officers that are assigned to that team, that unit,
17 within the overall team, that has a specific
18 function.

19 Q Do you know sitting here today how
20 many different Documentation Teams were assigned to
21 the Stockley protests?

22 A I believe there were at least four
23 because I believe we had four components to the CDT
24 team.

25 Q Do you know if the Documentation Team

1 was present in connection with what's been referred
2 to in the public discourse as the kettle?

3 A I believe they would have been
4 present but I have no firsthand knowledge that they
5 were present.

6 Q Do you know if the Documentation Team
7 -- strike that.

8 Do you know if a Documentation Team
9 was present in connection with the Luther Hall
10 incident?

11 A I don't know at what point that the
12 Documentation Team would have come in on that
13 because they come in behind the CDT efforts, they
14 are stationed behind them in rank. So I assume
15 they would have been behind the officers in that
16 CDT team but where their location was in connection
17 with those specific incidents, I don't know.

18 Q Because, for example, in the Luther
19 Hall incident clearly there was a situation where
20 police officers were interacting with people
21 exercising their First Amendment; fair to say?

22 A It's fair to say there was an
23 incident, yeah.

24 Q And there was an interaction between
25 the police officers, to put it mildly, and certain

1 individuals; correct?

2 A Yes.

3 Q That would have been the purpose of
4 the Documentation Team to record that incident;
5 correct?

6 A Potentially.

7 Q When the Stockley protests were
8 completed, how does -- how did the records, the
9 video records taken by the Documentation Team, get
10 compiled somewhere? Where are they maintained?
11 I'm trying to understand the next process.

12 A They would -- depending on the media
13 and how they were recorded, there's a couple of
14 different ways that they get to our property
15 custody section.

16 So primarily they could be downloaded
17 and put onto a flash drive or a disk and then
18 entered into property custody to be held for review
19 or trial or duplication, discovery requests.

20 Things that would be recorded by the
21 Real Time Crime Center would be very similar. They
22 would be recorded, they would be held on a server,
23 copies would be made and then forwarded to the
24 either the prisoner -- prisoner -- property custody
25 for holding.

1 In the cases of still photos,
2 anything that would have come off camera cards,
3 those would have probably been submitted to our
4 laboratory division and then held in our digital
5 information management system.

6 **Q Is there a simple way to search, if**
7 **you wanted to know, get a listing of all the video**
8 **-- I'm going to start with Documentation Team from**
9 **the Stockley protests -- that summarizes here's the**
10 **Documentation Team, here is the dates and times and**
11 **location of every video they have done, so it's**
12 **very easy to find? Like if I don't know what**
13 **happened at this intersection at 11 o'clock, I just**
14 **search through it and there it is?**

15 **A Not necessarily, I don't believe we**
16 **have a comprehensive data management system that --**
17 **because it's not going into a system that way.**
18 **It's going in piecemeal. The records would have**
19 **been recorded and then submitted as evidence. I**
20 **don't believe we have any type of that other than**
21 **what the Real Time Crime Center would have related**
22 **to their file storage method.**

23 **Q I'm going to deal with the Real Time**
24 **Crime Center in a minute. I'm still talking about**
25 **the Documentation Team. They complete the process,**

1 they, if I understand correctly, transfer their
2 video recordings to the property custody section?

3 A Yes, sir.

4 Q And my question is, who is in charge
5 of the property custody section back in September
6 or November, October of 2017, let's say? If you
7 know.

8 A The property custody section is a
9 unit within the police department. It reports to,
10 I believe, the commander of auxiliary services.
11 There is a sergeant who is in charge of the
12 day-to-day operation of the property custody unit.
13 At one time there was a lieutenant. I am not sure
14 if, the time frame in question, we have a
15 lieutenant there or not.

16 Q And that's fine. I understand people
17 move around quite a bit. I've gotten that
18 impression. But regardless, whoever was in charge
19 sometime in let's say end of September, October
20 2017, received a significant amount of video
21 recordings from Documentation Teams that capture
22 the Stockley protests.

23 My question to you is, are you just
24 throwing them in a big basket somewhere --

25 A No, no, no.

1 Q -- or is there any effort to
2 document, saying this team recorded this time
3 period, that it's --

4 A What would have occurred is the
5 incident would have been recorded. The record
6 would be associated with a complaint number. The
7 material would be conveyed to the property custody
8 unit. Property custody would put it in its
9 evidence tracking system by the complaint number.
10 So all evidence related to the incident would, in
11 theory, be in the property custody, tracking the
12 evidence that goes to property custody, would be in
13 their tracking software and everything that we have
14 related to that case would be on a list from them
15 but not specifically related to at a point in time
16 this video, a second point in time this video, a
17 third point in time this video. And it would be
18 entered by the individual who submitted the
19 evidence. So I submit evidence, it would be
20 submitted by me under my name.

21 Q Gotcha. You used the phrase "case
22 and complaint." What do you mean when you say
23 that?

24 A The complaint number relates to the,
25 quote, case or incident. So any time the police

1 department has an incident and writes an official
2 report, we generate a complaint number. The
3 complaint number is a unique identifier related to
4 that specific incident.

5 Q And entire, all the videos recorded
6 by the Documentation Team in connection with the
7 Stockley protests, would they all be classified
8 under one complaint or case number?

9 A Not necessarily because multiple
10 incidents might occur over the course of a time --
11 the time period, which would have different
12 victims, different subjects; therefore, different
13 complaint numbers could be generated.

14 So you might, if we're talking a
15 series in time, since the Stockley protests
16 occurred over multiple days, there could be
17 multiple complaint numbers related to that --
18 related to those incidents that occurred during a
19 specific time frame.

20 Q To your knowledge, if today I was
21 looking for a specific incident, let's say I want
22 videos taken by a Documentation Team in connection
23 with a kettle, is there a capability by the City
24 of St. Louis to locate that readily and produce it
25 in litigation or to use it for its own purposes?

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1 A Yes, I believe so.

2 Q Okay. I think you testified that
3 there is four Documentation Teams?

4 A Potentially. There may be more.

5 Q Okay. There are two, I believe,
6 identified in the OPs plan; is that correct?

7 A Okay, yes.

8 Q Okay. Do you know what the others
9 are?

10 A The potential, I was speaking of the
11 fact that we have -- I believe there were four CDT
12 teams out and I was under the impression that there
13 would be one evidence team for -- one evidence
14 collection team for each CDT team.

15 That may not be 100 percent accurate,
16 but I would also indicate that there are the
17 ability of other individuals to collect evidence as
18 well. So obviously, if there's something -- police
19 officers have a duty to collect and preserve
20 evidence. If there was some evidence that needed
21 to be collected, we would do that.

22 Q Were, to your knowledge, four
23 different Documentation Teams deployed in
24 connection with the Stockley protests?

25 A I'd have to review the OPs order.

1 Q Okay. You mentioned several times
2 the Real Time Crime Center is another vehicle
3 through which the City can record protests?

4 A Correct.

5 Q Okay. Where is that located?

6 A The center itself is located in
7 police headquarters at 1915 Olive.

8 Q And I apologize for my ignorance.
9 I'm learning quickly here, a steep learning curve.
10 But is that basically capturing what -- throughout
11 the City, there is, I assume, a capability to
12 record what's transpiring in the City at all times?

13 A There are a network of cameras that
14 are funded by police and private partnerships that
15 are located in various areas of the City that are
16 connected to the Real Time Crime Center and the
17 Real Time Crime Center has the ability to review or
18 record video from those locations, if needed.

19 Q Who is responsible for maintaining
20 those cameras throughout the City that are
21 providing information to the Real Time Crime
22 Center?

23 A I believe it is the City's
24 responsibility; although, I think it depends on who
25 owns the camera as far as because I do know that

1 we, as in the police department, have relationships
2 with private entities that allow us access to their
3 cameras but I believe they're responsible for the
4 maintenance of those cameras. It's not assumed by
5 the City.

6 Q So to the extent the camera is owned
7 by a private entity, they're clearly responsible
8 for maintaining their own cameras but all the
9 cameras that are owned by the City, is it fair to
10 say the City is responsible for maintaining them?

11 A I believe that would be fair to say.

12 Q Does the City, to your knowledge,
13 utilize the services of an independent contractor
14 to maintain the cameras to the extent they
15 malfunction?

16 A When we have a vendor that we work
17 with that is the camera platform, as I understand
18 it, there are potential video platforms, different
19 video platforms available for this type of unit.
20 We use a platform, I believe it's called Genetec,
21 and that is the platform that we utilize to -- when
22 we have issues with our cameras. So the cameras
23 need to be Genetec compatible, which is a system
24 style, and that we would work with them if there
25 was some issue with the recordings.

1 Q I apologize, maybe I'm getting
2 confused here. Is Genetec a software or is it
3 actually a company?

4 A I believe it is a company that
5 manages software related to a camera, a hardware
6 and software, so.

7 Q So is it your understanding that to
8 the extent there is, let's say, either a software
9 or hardware malfunction with a particular camera
10 that is owned by the City, the City will contact
11 Genetec and say there is a problem with camera X,
12 you need to go out and repair it?

13 A Not necessarily. We would do our own
14 repair if it was within our capability. If it was
15 something that was beyond our capability, we would
16 probably work with Genetec to resolve an issue.

17 Q Is there a particular department
18 that's responsible for that?

19 A The City, I believe, has a department
20 that maintains the cameras and they work in
21 conjunction with the Real Time Crime Center. At
22 one time the Real Time Crime Center did do some
23 camera maintenance. I'm not sure what time frame
24 they stopped doing that and the City took over
25 relative to the merger of the City and the police

1 department. There's been lots of changes that I
2 may not be aware of.

3 Q Does this department that you
4 mentioned have a name?

5 A I'm not sure what the City calls
6 that.

7 Q Was that department --

8 A It could be --

9 Q Was that department in existence
10 around September and October of 2017?

11 A I don't know, but I believe so.

12 Q Because I'm really focusing about
13 that time period. So, hypothetically, if there was
14 a camera that malfunctioned in, say, September of
15 2017, and somebody in the City learned about this
16 camera malfunction, I'm trying to understand the
17 process of how that would be communicated to whom
18 and such that it could be repaired.

19 A I would assume, as I understand it,
20 that if we know that there is a camera
21 malfunctioning, we bring it to the attention of the
22 City group and they assist in getting it resolved.

23 Q Would that typically happen by
24 communicating through email?

25 A I would assume it would be a phone

1 call or an email notifying them.

2 Q Would there typically be a record
3 showing what the repair is -- what repairs are
4 necessary and that the repairs have been completed?

5 A I assume we would be notified that
6 the repairs are completed. That would be a
7 communication between the City department and the
8 Real Time Crime Center or the people that are
9 maintaining that.

10 Q With respect to the Real Time Crime
11 Center, in particular focusing the time period
12 again of during and after the Stockley protests, it
13 immediately has access to all video recording
14 through the cameras that the City operates as well
15 as public -- private entities; correct?

16 A I believe they have the capability of
17 reviewing those. They're not looking at every
18 camera that's across the City all the time.

19 Q How are those records being retained
20 by the Real Crime Center?

21 A Essentially what happens is data
22 comes in, depending on how, who owns the camera,
23 there is an overwrite period somewhere between 7
24 and 30 days. Obviously if -- in the case of
25 something like this Stockley protest where we know

1 that there is the potential for litigation or
2 issues or things that we are going to want to look
3 at again, that information is downloaded and stored
4 on the server and the files are named, listed, and
5 it's maintained on that server pending
6 determination of do we need this or do we not need
7 it.

8 Q To your knowledge, have all of those
9 records from the Real Crime Center been retained
10 since the Stockley protests?

11 A To the best of my knowledge, those
12 that have been identified as pertinent have been
13 kept and retained.

14 Q When you say those that have been
15 designated as pertinent, what does that mean? Were
16 any records excluded and destroyed relating to the
17 Stockley protests?

18 A Not that I'm aware of, but as I said,
19 because the Real Time Crime Center covers the
20 entire city, those that may be outside of the
21 interest area may not have been kept for any
22 reason.

23 Q But anything that -- any video
24 recording of the Stockley protests that captured
25 any activity relating to the protests, those, to

1 the best of your knowledge, have been retained?

2 A To the best of my knowledge, those
3 have been retained and produced.

4 Q Is that also true with respect to the
5 recording done by the Documentation Team?

6 A Yes.

7 Q And with respect to the method in
8 which the Real Time Crime Center maintains its
9 records, is it fair to say that there's a really
10 easy way to identify, if I'm looking for a
11 particular video recording, to search for it by
12 date and the location of that camera?

13 A Yes. They should be able to do that
14 for you.

15 Q Okay. Does the City have any
16 specific rules, handwritten rules, or policies with
17 respect to the retention of video recordings
18 involving protests?

19 A I don't believe we have a specific
20 retention policy related to protests specifically.

21 Q Does it have -- is there a general
22 document retention policy that would cover those?

23 A I don't believe so. I don't believe
24 we have a specific, at least from the police
25 department side, other than what we discuss related

1 to our in car camera videos, I don't believe that
2 Real Time Crime Center has their own. They may
3 have their own policy on that written policy but I
4 don't think I've seen that as far as part of the
5 department's overall special orders.

6 Q I'm a little perplexed and want to
7 make sure I'm hearing you correctly. Is it your
8 testimony that the City of St. Louis does not have
9 a document retention policy, in general?

10 A Oh, I would never say that.

11 MR. DIERKER: Excuse me, I have to
12 object because I think you're outside the topics of
13 this 30(b)(6). But you may answer.

14 Q (BY MR. PRAISS) I don't believe -- I
15 think topic number 2, if you look at it, sir,
16 please, Mr. Larson? "The manner by which the City
17 of St. Louis has retained video recordings of the
18 Stockley Verdict Protests."

19 Do you see that?

20 A I see that.

21 Q And when I -- when we wrote this, the
22 manner, at least in my mind, within the scope of it
23 is, the starting point is, is there a policy that
24 relates to the retention of video recordings
25 relating to the Stockley protests?

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1 And if I understood you correctly,
2 your testimony a few minutes ago is that you're not
3 aware of anything specific dealing with the
4 retention of videos by either let's say the
5 Documentation Team --

6 A Right.

7 Q -- or the Real Crime Center --

8 A Right.

9 Q -- that deals with video protests; is
10 that correct?

11 A Well, I think we're -- we're saying
12 the same things differently. What I am saying is,
13 obviously, if we have evidence that relates to a
14 complaint number, that evidence is downloaded,
15 recorded, or held in the manners in which I've
16 discussed going to property custody. As far as an
17 overall, quote, City policy on the retention of
18 video, I can't speak to that specifically.

19 As far as a police department, i.e.,
20 our policies related to video would be documented
21 in either the in car camera order, because that
22 talks about the -- and even that is downloaded to
23 disk and submitted to property custody, as I've
24 indicated.

25 Q My question -- let's look at it

1 differently. How long does that type of
2 documentation have to be retained?

3 A Until it's approved to be disposed
4 of, which I mean, I'm not following the question.

5 Q Let's say there's an incident,
6 protests, and no litigation is filed. How long
7 does the City maintain those records from the
8 Documentation Team and the Real Time Crime Center
9 of that protest?

10 A If there is no complaint number
11 generated, if there are no incidents involving an
12 arrest, that data would probably not be kept more
13 than, I don't know, anywhere between 7 to 30 days
14 because we have no need for it.

15 Q Let's assume there was one arrest of
16 one individual because that individual, you know,
17 did not comply with a request by an officer. At
18 that point, is there any policy that requires the
19 City or whereby the City maintains the records
20 relating to that protest in the event that down the
21 road and during the statute of limitation a lawsuit
22 would be filed?

23 A Individuals arrested, if there was
24 evidence of that arrest that occurred on video, it
25 would be downloaded, put on disk or flash drive,

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1 and held in evidence until the matter is resolved,
2 adjudicated, or it's purged at some point.

3 Q If you could look at topic 25? This
4 says, I'll read it for the record, it's the
5 "Circumstances surrounding the loss or destruction
6 of the video recording produced labeled as City
7 01152."

8 Do you see that?

9 A I do.

10 Q What specific steps did you prepare
11 to testify with respect to this topic?

12 A It is my understanding that related
13 to this topic there is one camera that produced two
14 files, which apparently during the course of
15 collection we noted that there was something wrong
16 with the files and we released them as part of the
17 discovery process and we discussed that there were
18 cameras a block north and a block south of the
19 camera in question that didn't record, and my
20 understanding is that we're working with the
21 vendor, Genetec, to try to recover that data. And
22 that those files were related to two separate dates
23 and times, so it was apparently a camera
24 malfunction.

25 Q Do you know where that camera is

1 **located?**

2 A I believe it was located at 14th and
3 Locust but feel free to correct me if I have that
4 location wrong.

5 Q **To date, has the City been able to**
6 **recover that video?**

7 A To the best of my knowledge, no, it
8 is an ongoing process and we are working on it.

9 Q **And if I understood correctly, you**
10 **are working with a vendor, i.e., Genetec?**

11 A That was information I was given.

12 Q **Is this a camera that Genetec was**
13 **responsible for maintaining back at the time of the**
14 **Stockley protests?**

15 A I have no knowledge of that. I don't
16 believe they are responsible for maintaining the
17 camera. As we discussed previously, we would only
18 come in -- we only would contact them if it was
19 something that we couldn't fix.

20 Q **Okay. When was the first time the**
21 **City learned that the camera that recorded the**
22 **video that was produced as City 01152 had**
23 **malfunctioned?**

24 A I believe it was when we were
25 compiling the information for discovery, when the

1 individual that was reviewing those videos found
2 it, noted it, and released it.

3 Q So at no time -- at the time when
4 this Stockley incident occurred around September,
5 October of 2017, nobody at that point learned to
6 recognize that this camera was not working?

7 A To the best of my knowledge, no, but
8 that's not to say a work order wasn't put in, but I
9 don't believe so. Nobody has given me the
10 information that, yes, we were aware that camera
11 was not functioning at the time of the incident.

12 Q And that's what I'm trying to get at
13 because if I'm hearing you correctly, is it your
14 testimony, as the corporate representative of the
15 City today, that literally this camera has been
16 inoperable and malfunctioning since September of
17 2017 until just recently when somebody, in response
18 to a discovery request, learned that this camera
19 failed many, many months ago?

20 A Yeah. I don't know. You'd have to
21 talk with someone specifically in the Real Time
22 Crime Center --

23 Q I'm talking to you today because
24 you're the corporate representative and that was
25 your duty to make sure you were knowledgeable and

1 informed about it, with all due respect, Mr.
2 Larson, and I need answers today. I don't want to
3 go running around. That's why I do a 30(b)(6),
4 because I need those answers from you and I would
5 have hoped you would have done a little more
6 research. But I'm going to keep asking questions.

7 A You're welcome to keep asking
8 questions.

9 Q To your knowledge, was a work order
10 ever issued after September 2017 with respect to
11 the camera that took the video City 01152?

12 A No.

13 Q How would we find if there was one?

14 A I would have to look into the Real
15 Time Crime Center to see if there's any records or
16 the City agency that we use to maintain the
17 cameras.

18 Q Prior to today's deposition, what --
19 is there a reason why you did not take steps to
20 determine whether -- when and if a work order was
21 issued with respect to this camera that
22 malfunctioned back in September of 2017?

23 A I made an assumption that the camera
24 is currently working. The malfunction, I don't
25 know if it was a sporadic malfunction, a long-term

1 malfunction, if it was repaired and corrected, I
2 don't know. I was -- in preparation, I learned
3 that there was two files which had been turned over
4 that were corrupted and my investigation was to
5 determine what we knew about those corrupted files.

6 Q And that's what I'm trying to figure
7 out, what the City knew. So I -- specific question
8 for you is, when was the first time -- strike that.

9 I asked you this and I'm going to ask
10 it again, but am I correct that in preparing for
11 today's deposition, in particular topic 25, other
12 than learning that this particular camera
13 malfunctioned back in September of 2017 and that
14 somebody learned about that in connection with
15 responding to a discovery request in this case, you
16 have no knowledge about the circumstances of for
17 how long this camera malfunctioned, what steps, if
18 any, were undertaken by the City to repair it, or
19 what steps the City engaged Genetec to repair it at
20 any time from September '17 until the present? Is
21 that a fair summary of things you don't have
22 testimony about today?

23 A Correct.

24 MR. PRAISS: Then I would say that we
25 have a serious problem and this will require either

1 a motion for sanctions with the court for failure
2 to prepare a witness or we'll have to come back
3 here at a different time, but this is unacceptable.
4 I need to understand what happened to this video
5 and I think the topic is pretty damn clear, Judge
6 Dierker.

7 He made no effort, as far as I'm
8 concerned. To tell me what you wrote in the email
9 to Tony is unacceptable. I got that email and I
10 said, gee, I'd like to know what happened. That's
11 his role today.

12 MR. DIERKER: Well, with all due
13 respect to your disgruntlement, I think that your
14 inquiring into the history of the repair and
15 malfunctioning of the camera in question at other
16 dates is beyond the topic and is completely beyond
17 the scope of discovery and -- but we will be happy
18 to provide, if they can be located, any work orders
19 with regard to that camera and we'll be happy to
20 resume the deposition if necessary.

21 But my position is that the
22 investigation has occurred into the loss or
23 destruction of the video in question and that it is
24 ongoing.

25 MR. PRAISS: Well, I don't believe

1 he's given me any testimony about the circumstances
2 surrounding the loss or destruction other than what
3 you wrote in an email, the fact that somebody
4 discovered it a few months ago. But why it was
5 destroyed, what was happening with this camera,
6 when the City learned about it, those are relevant.

7 For example -- anyways. So I -- I
8 we'll agree to disagree. Why don't we take a short
9 break.

10 MR. DIERKER: Okay.

11 MR. PRAISS: Thank you.

12 (Off the record.)

13 Q (BY MR. PRAISS) Mr. Larson, back on
14 the record. Close the loop on a few other
15 questions, again dealing with topics 1 and 2 in
16 particular.

17 You had mentioned, I believe in your
18 testimony, if I heard you correctly, about the fact
19 that the City does have an in car cameras for --

20 A We have some, yes. Not all police
21 cars are equipped with in car camera system, but
22 some police cars are.

23 Q Are you aware if there's any in car
24 camera video recording of the Stockley protests?

25 A I am not.

1 Q If I wanted to know if those exist,
2 is that something that -- is it your understanding
3 that the City has, in its recordkeeping,
4 distinguishes between video recording from
5 Documentation Team versus the Real Time Crime
6 Center versus in car camera recording, those are
7 all separately retained in different ways?

8 A Not necessarily separately retained.
9 They're all retained in -- primarily again with
10 even in car, the information is downloaded,
11 recorded, put on disk, and entered into property
12 custody with the complaint number of the associated
13 incident.

14 Q But is it fair to say that somewhere
15 in the recording, recordkeeping process, there is
16 some identifier that indicates this was a video
17 recording taken by an in car camera?

18 A Yes. We would be -- we would know
19 how, where that came from. Yes.

20 Q Perfect. On a similar note, I think
21 -- and I think, and I apologize if I asked you this
22 or you answered it before but I want to make sure I
23 have a clear understanding myself.

24 How are the Documentation Team videos
25 named or tagged so they can be reviewed?

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1 A They're essentially downloaded and on
2 -- and burned onto a disk with a file name and that
3 -- and then put into an evidence envelope which
4 would say something to the effect of video of X.

5 Q **Let's talk about that X. Would it**
6 **say video from Documentation Team X?**

7 A Yes. It would say something to the
8 effect of video recorded by Documentation Team.

9 Q **Okay. Would they identify the name**
10 **of a person on the Documentation Team?**

11 A The seizing and submitting officer
12 would prepare the evidence envelope that would have
13 that information.

14 Q **And obviously you would identify the**
15 **date and time and the location where that video was**
16 **taken by the Documentation Team?**

17 A It would indicate that, in the police
18 report on the evidence envelope, it would indicate
19 the date, time, location, where it was collected.

20 Q **Okay. Are there any rules or**
21 **policies that the Documentation Team members have**
22 **to follow while they're collecting video?**

23 A Not specifically, as in they have
24 been trained to, as part of the CDT process, to
25 collect that evidence, that documentation, record

1 it, seize, mark package, and submit it to property
2 custody.

3 Q Are there any rules that may
4 expressly prohibit them from deleting videos that
5 they take that may show improper police conduct?

6 A There are no, to the best of my
7 knowledge, no specific rule directed at that but
8 our general rule would be, in the special orders,
9 would be that that would not be acceptable.

10 Q When you say the "general rule," can
11 you point me to what are you referring to?

12 A Things like conduct unbecoming.
13 Obviously we -- that would be an illegal criminal
14 act, to destroy evidence, and that would be a
15 violation of law, and, therefore, we don't have an
16 order that says you're not to do unlawful things.
17 So I mean, it's part of the -- part and parcel of
18 being a police officer, you would not download and
19 destroy unfavorable evidence.

20 Q So to the extent somebody in the
21 Documentation Team recorded an incident where the
22 police acted inappropriately in connection with the
23 Stockley protest and then deleted it, that would be
24 an unlawful act?

25 A Yes, I believe it would be

1 destruction of evidence, hindering prosecution, any
2 list of crimes.

3 Q Has it come to the City's attention
4 at any time that that -- something like that has
5 actually happened where somebody on the
6 Documentation Team has deleted video?

7 A I have no knowledge that that
8 occurred.

9 Q As part of CDT training, what
10 Documentation Team training is included?

11 A As part of the overall briefing on
12 how we're going to execute specific functions, the
13 individuals who are assigned to those teams are
14 given cameras and told to go out and record the
15 actions of protesters and the officers during the
16 event.

17 Q Other than that, any other training?

18 A Not to my knowledge, there's not a
19 specific like PowerPoint or lesson plan that covers
20 that. It's incorporated into the ongoing trainings
21 of the CDT teams.

22 Q Am I correct that Luther Hall was in
23 the Documentation Team?

24 A I'm not sure. Luther Hall was
25 assigned to the intelligence unit at the particular

1 time. I am not sure in the detail where he was
2 listed, if he was listed in the detail. He may
3 have been on a Documentation Team in a previous
4 assignment.

5 Q Okay. Do you have the OPs plan in
6 front of you, sir?

7 A I do.

8 Q Can we mark that as an exhibit, if
9 you don't mind?

10 MR. DIERKER: Can we go off the
11 record for a minute?

12 MR. PRAISS: Sure.

13 (Off the record.)

14 (Plaintiffs' 30(b)(6) Exhibit 3
15 marked for identification by the court reporter.)

16 Q (BY MR. PRAISS) Mr. Larson, I'm
17 going to hand you two pages and they have been
18 Bates numbered CITY 430 and 431 on the backside as
19 well as 439 and 438, and these are pages taken from
20 the OPs plan?

21 A Correct.

22 Q Okay. And for the record, when I use
23 the term "OPs plan," what does that mean?

24 A It's the operation order that is an
25 umbrella document that we utilize to direct

1 individuals to their job functions during an event,
2 and we put these together for large scale special
3 events. So Fair St. Louis would have an OPs an
4 operations order. Mardi Gras has an operations
5 order. Things like that.

6 Q Are the two pages I've handed, you
7 are those from the OPs plan related to the Stockley
8 post?

9 A They are.

10 Q And if you look on pages Bates
11 numbered 430 and 439, do you see Luther Hall's name
12 shown?

13 A I do.

14 Q And am I correct it identifies him
15 being on the Documentation Team?

16 A Correct.

17 Q Okay. Does this confirm for you that
18 Luther Hall was on the Documentation Team during
19 the Stockley protests?

20 A Not necessarily. The way these
21 things are put together, the individuals' names are
22 -- they go into a pool. He may -- he is listed in
23 the order as being on the operations plan. At the
24 particular date and time, incident location, for
25 his incident, I can't state that he was with these

1 individuals at the time.

2 Q Do you have any reason to, sitting
3 here, to not believe that he was on a Documentation
4 Team as noted in the OPS plan?

5 A Again, this OPS plan had him on that
6 team. There are changes that occur to the OPS
7 plan, people call in sick, people get moved around.
8 In particular, I would have to say that he was not
9 with the Documentation Team at the time of his
10 incident just because I have been told that that
11 was not the case.

12 Q Separate and apart from the time of
13 his incident, and I understand a lot of things can
14 happen where changes happen from what the OPS plan
15 says, but sitting here today as the corporate
16 representative, are you aware whether or not any of
17 those actually hypothetical things happened or, to
18 the contrary, Mr. Luther Hall was in fact on a
19 Documentation Team, at least in part, during the
20 Stockley protests?

21 A He was listed as part of the
22 Documentation Team in that particular operations
23 order.

24 Q And my question, do you have reason
25 specifically, based on facts, to tell me that he

1 **didn't participate on the Documentation Team, at**
2 **least in part, during the Stockley protest?**

3 MR. DIERKER: I need to object as
4 outside the scope of the deposition designation as
5 to Luther Hall's specific assignment, but you may
6 answer.

7 MR. PRAISS: If he knows.

8 A I don't -- I don't know.

9 Q **(BY MR. PRAISS) Okay. When was the**
10 **OPs plan -- and I know we only have a few pages of**
11 **it -- but when was it created?**

12 A It would have been created prior to
13 the verdict announcement. Probably a week or so
14 prior we would be collecting names. Because not
15 knowing when the verdict would be released, we have
16 the things, shift changes, all kinds of personnel
17 issues, this is a very big document, we're trying
18 to get multiple members of the police department at
19 one place, at one time. So it would have been --
20 it operates off a template format, meaning our
21 operation planning unit has a template that they
22 use for specific things, for specific roles, and
23 individuals are plugged into that template.

24 It was an ongoing process to create
25 that document and the document was released prior

1 to the events that occurred.

2 So we knew the Grand Jury verdict was
3 going to come in a day or so. The OPs plan was
4 ready to go by those dates.

5 Q Was the OPs plan at any time amended
6 after its release?

7 A Not to my knowledge, but there are
8 email -- if there were personnel changes in general
9 manners, we update -- like replacement personnel
10 lists, there would be a replacement personnel list.
11 I don't know that one was created. A lot of that
12 stuff comes by phone. People call in, say Joe is
13 not coming, Eric is coming, and so.

14 Q But my question is, to your
15 knowledge, nobody input any of those information
16 about individual changes in terms of generating an
17 amended OPs plan?

18 A No. No.

19 Q Thank you. Do you have the Notice of
20 Deposition in front of you?

21 A I do.

22 Q I'd like to jump to topic 12, if I
23 could, and cover topics 12 and 15 with you.

24 A Okay.

25 Q You see they all, in one way or

1 **another, deal with chemical agents?**

2 A Yes.

3 Q **Okay. Is there anything that you did**
4 **specifically to prepare for these topics?**

5 A Topic 12 and topic 15?

6 Q **No, topic 12, 13, 14, and 15.**

7 A Yes, I reviewed the special orders,
8 Special Order 1-01 specifically, the section, I
9 believe it's Section VIII-6 that covers mace and
10 Section XIII which covers chemical agents and crowd
11 dispersement.

12 Q **The first section was section?**

13 A I believe it's Section VI. It's
14 individual use of mace.

15 Q **And the other section you reviewed?**

16 A I believe it was XIII.

17 Q **And other than reviewing those**
18 **sections from the Special Order, did you do**
19 **anything else to prepare for testifying as a**
20 **corporate representative on topics 12 through 15?**

21 A I looked at some training documents,
22 primarily related more towards dispersal order than
23 chemical agents, but that's part of the Special
24 Order Section XIII, 1-01 Section XIII.

25 Q **Okay. Anything else? I just want to**

1 make sure I have a complete understanding of what
2 you did, what you looked at in preparing for these
3 topics 12 through 15?

4 A I believe that would be the extent of
5 it.

6 Q Okay. In a few minutes I'm going to
7 show you a particular document. Please let me
8 know, when I hand it to you, if that's the training
9 document you were referring to or it's something
10 else and we'll explore that a little bit.

11 In your career since -- I think you
12 started out in 1994 --

13 A Mm-hmm.

14 Q -- '95 time period, have you yourself
15 ever deployed pepper spray or mace?

16 A I have been involved in incidents
17 where pepper spray and mace were deployed,
18 primarily as a patrol officer, which would be in
19 the 1995 through 2004 time frame. Whether I was
20 actually the officer that deployed or was an assist
21 officer, I can't recall.

22 Q Okay. Do you recall approximately
23 how many times you, whether yourself did it or
24 another police officer close to you, used pepper
25 spray that you recall from 1995-2004?

1 A I can't recall. I'd be speculating.

2 Q Okay. After 2004, though, you had --
3 have you ever yourself deployed pepper spray mace,
4 or witnessed other police officers doing it?

5 A I'm sorry, I'm pausing because I'm
6 trying to think through. Most of my duties were
7 not street enforcement related between 2004 and
8 2015, so I would say during that time frame, no, I
9 can't recall ever deploying or seeing mace
10 deployed.

11 I can't recall seeing mace deployed
12 as a commander during -- during any -- not where I
13 was -- not where I was like front and center
14 present, no. I don't -- I don't recall.

15 Q So really the only times where you
16 either yourself used pepper spray mace, or
17 witnessed someone, would have been during the
18 1995/2004 time period?

19 A Yes.

20 Q During that time period, were those
21 incidents in connection with an arrest of an
22 individual?

23 A Yes.

24 Q Prior to the use of pepper spray or
25 mace in those incidents, is it your recollection

1 **that the officer provided any warnings to the**
2 **individual?**

3 A No, it would have been relative to
4 affecting an arrest. The individual would have
5 been told that they were under arrest or it would
6 have been a fight situation so the deployment would
7 have been immediate and there would be no warning
8 given.

9 Q Were there any situations where it
10 **wasn't a fight but simply somebody was not**
11 **compliant with a request, such as turn around so I**
12 **can put handcuffs on you, the person doesn't**
13 **comply, and to effectuate the arrest, the officer**
14 **needs to use pepper spray mace?**

15 A Under our order, we do not warn that
16 we're going to deploy mace for an arrest situation.
17 The individual is notified that they're under
18 arrest, turn around, put your hands behind your
19 back, and then if when the individual fails to do
20 that, then it's an escalation of force through the
21 use of force continuum.

22 So if I go to put my hands on an
23 individual, and they resist, they begin to flail,
24 then I might use mace to subdue them and bring them
25 under compliance.

1 Q Think of a situation where the person
2 is not resisting in any way physically, there is no
3 threat of violence, there is no imminent threat of
4 harm to the police officer who is trying to
5 effectuate the arrest --

6 A Then there would be --

7 Q Just a -- let me finish my question.

8 A Sorry.

9 Q I'm going to start over. I want you
10 to imagine the following scenario, which is not
11 implausible at all, I hope you'll agree with me,
12 that there is an officer trying to effectuate an
13 arrest. The officer has the handheld pepper spray
14 mace device with him. He asks the person to do
15 something and the person is -- simply refuses to
16 comply with that request but is not exhibiting any
17 force or violence, there is absolutely no threat of
18 imminent harm to the police officer or anybody
19 else, just a non-compliant individual.

20 Under those circumstances, is the
21 police officer allowed, on the escalation of use of
22 force, to spray the person with pepper spray
23 without giving him a warning, saying words to the
24 effect, sir, you're not complying with my request;
25 unless you comply, I'm going to spray you with

1 pepper spray and it's going to hurt. Something to
2 that effect?

3 A No.

4 Q Is there a reason why, as a policy,
5 the City wouldn't want police officers under the
6 circumstance that I described, where an individual
7 is simply uncooperative, but not violent, that you
8 wouldn't, in the process of trying to effectuate an
9 arrest in a peaceful manner, not give a warning,
10 saying, I'm going to do something that's going to
11 hurt you, please cooperate?

12 A Because mace is not --

13 MR. DIERKER: Excuse me, I'd like to
14 object to the form of the question as
15 argumentative, but you may answer.

16 A Because, technically, mace is not to
17 be used just on non-compliance, passively resisting
18 persons. So we would not use mace on someone who
19 is passively resisting. Mace would be used on an
20 actively resisting. So if I am refusing to be
21 handcuffed, we would put handcuffs on an individual
22 and use -- we wouldn't necessarily spray them
23 unless they are actively resisting.

24 Q (BY MR. PRAISS) So if I heard you
25 correctly, if someone is passively resisting, the

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1 City's policies is that mace should not be used in
2 that circumstance; is that an accurate statement?

3 A I believe so.

4 Q Okay. To the extent, in connection
5 with the Stockley protests, individuals were
6 engaging in civil disobedience but peacefully, and
7 at no time actively resisting but simply passively
8 resisting a request, an order from a police
9 officer, it would have been inappropriate for a
10 police officer in those situations to use pepper
11 spray at those individuals to get them to comply
12 with a request; is that a fair statement?

13 A Unless other factors were in play.
14 So, for example, obviously we would need to give
15 warnings to individuals that were -- because of the
16 dynamic nature of protests, where there is some
17 engaged in unlawful activities, sometimes in order
18 to disperse crowds, mace would be deployed, but
19 only after a set of circumstances.

20 Q Okay. I want to break that down a
21 little bit and understand what you're saying. I
22 want to talk about a situation where you have a
23 group of people protesting and officers tell a
24 particular individual -- gives him a command to do
25 X Y and Z.

1 At that point, if the person is
2 passively resisting, refusing to turn around so
3 handcuffs could be put on him or her, is there any
4 basis for an officer then to use handheld mace and
5 spray the person in order to get them to comply,
6 under the police policies?

7 A I think we're going to quibble over
8 what active/passive resistance looks like. Under
9 strict passive resistance, I would say no, there
10 would be no reason, but what shifts from active to
11 passive is where we are going to have issues on
12 when spraying is going to occur or not going to
13 occur.

14 Q Okay. But again, I want to focus on
15 my situation, that simply is a refusal to comply
16 with an order but not in any way resisting or
17 tugging or doing anything. Just saying no, holding
18 my hands like this. Would an officer be allowed,
19 in my -- I'm just crossing my hands and -- would in
20 your mind be -- is that a position where an officer
21 could spray me without any warning?

22 A By crossing your arms, you are
23 committing active and defensive resistance, so
24 you're actively resisting my attempt to take you
25 into custody, so, therefore, mace could be

1 deployed.

2 Q Okay. Is there a reason why the City
3 has a policy that in that situation allows a police
4 officer to spray me without warning to get me to
5 cooperate, knowing that by spraying someone, it's
6 going to hurt like hell, excuse my language, and if
7 I gave the warning as a police officer, I may get
8 compliance? What's the a rationale for not giving
9 a warning in that situation? That's why I'm
10 perplexed.

11 MR. DIERKER: I'll object to the form
12 of the question as argumentative and calls for a
13 legal conclusion. You may answer.

14 Q (BY MR. PRAISS) You're not an
15 attorney, are you? I just want to make sure I
16 didn't miss something.

17 A Technically, I am an attorney. I
18 graduated from law school in 2004.

19 Q Should have covered your education.

20 A Yes.

21 Q Where did you go to law school?

22 A Saint Louis University School of Law.

23 Q Okay. So you are an attorney.

24 A I am an attorney. I don't actively
25 practice law.

1 Q For today's deposition I am not
2 asking for any legal opinions by you. I think the
3 judge will handle the law side quite well.

4 A Yes. I hope so.

5 Q Yes. My question to you is, solely
6 as the representative of the City today about
7 City's policies and practices. And we have topics
8 dealing with chemical agents, you have mentioned
9 that you viewed the Special Order Section VI
10 dealing with mace, and I'm going back to my
11 specific question.

12 Could you explain to me the rationale
13 between -- strike that.

14 Can you explain to me the City's
15 rationale for allowing officers to use handheld
16 pepper spray against an individual who is not
17 acting violently, but simply refusing an order,
18 without first giving a simple warning, advising the
19 individual that there will be pepper spray deployed
20 against them unless they comply?

21 MR. DIERKER: I'll renew my
22 objection. You may answer.

23 A The reason is, generally, in order to
24 take the person into custody, to use the element of
25 surprise as it were, to take the individual into

1 custody. If -- and again, we're talking about
2 active versus passive resistance. We wouldn't use
3 mace on individuals that are just generally not
4 compliant. It's when they're not compliant and we
5 cannot take them into custody.

6 You cannot comply with -- you can --
7 I'm trying to phrase this appropriately. You can
8 be non-compliant and actively resisting, in which
9 we would deploy mace. In general, if you are
10 passively resisting, I am not going to go, I'm
11 going to sit down, we would use empty hand
12 techniques to take the individual into custody. We
13 would not deploy mace.

14 As regards to warnings, as a standard
15 policy, we do not give warnings to individuals that
16 we are going to not -- we don't use warnings on a
17 one-on-one individual basis. If we're going to use
18 them in a crowd dispersal basis, then a warning
19 would be applied.

20 **Q (BY MR. PRAISS) That's what I'm**
21 **trying to understand. Why is it in one situation**
22 **you do have warnings and the City recognizes the**
23 **value of them, but in this situation, prior to**
24 **escalating the situation, the City has a policy**
25 **that allows the use of pepper spray without**

1 **warnings? That's what I'm trying to exactly**
2 **understand.**

3 MR. DIERKER: Once again I object to
4 the form of the question.

5 **Q (BY MR. PRAISS) You may answer.**

6 A I cannot give you a reason why we
7 provide warnings other than the tactical
8 application of the mace itself.

9 **Q When you say "the tactical**
10 **application of mace," what do you mean by that,**
11 **sir?**

12 A The actual deployment, the -- to tell
13 someone that we are going to take a course of
14 action then gives them an opportunity to thwart
15 that course of action. So we wouldn't -- if I gave
16 you the opportunity to -- if I said I am going to
17 spray you with mace if you don't comply, well, then
18 you might cover your face with your arm and then --

19 **Q Or I may just as well comply,**
20 **couldn't I? Isn't that a possibility too?**

21 A All possibilities are possibilities
22 until they become probabilities.

23 **Q So if the goal is to avoid escalating**
24 **the situation, will you agree with me that, at a**
25 **minimum, you will try to de-escalate by warning a**

1 person, saying, sir, your hands are crossed, you
2 are resisting my attempt to arrest you, I am asking
3 you one last time, please comply or I will have to
4 spray you with pepper spray?

5 A But in most instances, we've
6 already --

7 MR. DIERKER: Excuse me, I object to
8 the form of the question, argumentative, compound,
9 complex, calling for a legal conclusion.

10 MR. PRAISS: Wow, any other
11 objections, Judge Dierker, from your law school
12 days that you want to come up with?

13 MR. DIERKER: If I think of any, I'll
14 assert them.

15 MR. PRAISS: Please assert them. I
16 think you could add three more.

17 Q (BY MR. PRAISS) But subject to all
18 that, sir, could you answer my question?

19 A Mostly because our goal in any
20 situation is de-escalation and voluntary
21 compliance. It -- everything works better for the
22 officer on the street if we can gain voluntary
23 compliance from the individual. Once we have
24 reached a point where we're in a situation where
25 we've already asked you to comply, we've already

1 then told you to comply, so we've got two refusals
2 of compliance, at the third point it's time for us
3 to take action. And the individual officer has the
4 discretion of determining what that action will be.
5 And what is to -- what minimizes the potential for,
6 quote, injuries from taking such action.

7 So we could go hands on and grab and
8 manipulate an individual, force them to the ground,
9 potentially causing injury. We could spray them
10 with mace, which, while painful, does not tend to
11 have long-lasting effects or long-term injuries.
12 That's why it's a non-deadly use of force.

13 I think that is part of the
14 explanation in that, once we have reached the stage
15 of taking action, we are no longer in a -- required
16 to be giving warnings as far as what we've done.
17 We've already done that. We've already given the
18 warnings. We've already said you're failing to
19 comply. You're subject to arrest. We're going to
20 arrest you if you fail to comply. That's a matter
21 of using force.

22 Q But nowhere in that process is the
23 police officer required to give a warning that he
24 or she is going to -- about to use pepper spray
25 mace in order to get compliance from an individual;

1 correct?

2 A They are not.

3 Q Okay. Could you, for the benefit --
4 for my benefit and for the record, describe as best
5 you can the difference between passively resisting
6 and actively resisting? What triggers that
7 distinction? And let me also, I'd like to
8 understand what training is provided to officers or
9 are there anything in writing that defines those
10 things?

11 A It covers it in the orders and during
12 defensive tactics training I believe from the St.
13 Louis Police Academy, where all officers go through
14 that, you know. Active resisting is generally an
15 active fight or flailing or resistance to being
16 taken into custody.

17 Q Let's focus on the last part, "the
18 resistance to being taken into custody." What
19 constitutes resistance? What's the minimum amount
20 that I have to do to trigger active resistance?
21 Let's get the minimum threshold.

22 A The minimum threshold, it first would
23 start with refusing to comply because that's an
24 active act. And then as we go forward, we're going
25 to get into things that are actually resisting my

1 arrest. That could be fleeing. It could be
2 flailing. It could be -- those two are the main
3 ones. Fleeing from being put into handcuffs,
4 running from me, taking a fighting stance. All of
5 those.

6 Q Again, I'm focusing on the minimum.
7 You seem to be wanting to look at the higher end of
8 the spectrum, with all due respect.

9 A Right.

10 Q Take the situation, and I think I
11 heard you correctly, of an individual simply
12 refuses to comply.

13 A Mm-hmm.

14 Q Was it your testimony that simply
15 refusing to comply in itself is actively resisting?

16 A It can be. Refusing to comply, if
17 I'm refusing to comply and I'm locking my arms, or
18 I'm refusing to comply by holding this chair, that
19 can be an active resistance. Passively resisting
20 is I'm just resisting you. I'm just saying no.
21 And when the officer puts his hand on me to put me
22 in handcuffs, I willingly put my hands behind my
23 back and I am cuffed and I passively walk away.

24 Q So in the situation today of an
25 individual who refuses to comply with a request and

1 locks his or her hands in such a fashion that make
2 it difficult for a police officer to effectuate an
3 arrest, the police officer can, using his or her
4 discretion, spray that individual with pepper spray
5 without giving any warning; is that a fair summary?

6 A They do not have to give a warning.

7 Q Gotcha.

8 MR. PRAISS: Let me mark this as an
9 exhibit.

10 (Parties' 30(b)(6) Exhibit 4
11 marked for identification by the court reporter.)

12 Q (BY MR. PRAISS) I have given you
13 what's been marked as Exhibit 4, and it begins with
14 Bates number CITY 764, and does yours end -- I want
15 to make sure we're looking at the same thing
16 because the numbers seem to be off right now --
17 ends with CITY 53?

18 A Yes.

19 Q Okay. And I don't have an
20 explanation why the Bates numbers are not
21 sequential. Do you recognize this document?

22 A I do, and just as a point of
23 clarification in my earlier statement where I said
24 I reviewed pepper mace and I said Section VI, it's
25 actually Roman numeral Section IV, IV instead of

1 VI.

2 Q Okay. If you go to Bates number CITY
3 775? Is that the portion of the Special Order
4 Section IV dealing with the use of pepper spray?
5 Pepper mace?

6 A It is.

7 Q Okay. Is there anything in here that
8 you can point me to specific language that
9 identifies the difference between passive versus
10 active resistance?

11 A There is not.

12 Q Are you aware of any specific
13 training, written documents that specifically
14 delineate to officers the difference between
15 passive versus active resistance?

16 A I cannot point to any specific
17 training other than just my own as far as what we
18 discuss as far as active versus passive, that you
19 don't want to use mace on passively compliant
20 people.

21 Q Again, I'm interested in your
22 testimony as a corporate representative and I think
23 one of the topics deals with the training dealing
24 with chemical agents?

25 A Yes.

1 Q You understand our definition of
2 "chemical agents" includes pepper spray -- pepper
3 mace?

4 A I do.

5 Q Okay. So my question, in preparing
6 for today's deposition, is it your testimony the
7 City has no training documents that explain
8 specifically the difference between passive versus
9 active resistance which would advise police
10 officers under what circumstances they may or may
11 not use pepper spray mace to effectuate an arrest?
12 I have not seen those documents and I'm trying to
13 find out if they're out there.

14 A No, I cannot. I cannot.

15 Q Have you ever seen such document?

16 A No, I cannot recall. No, I cannot.

17 Q Okay. For the record, I believe
18 there may be a page missing in here, and I think
19 there was an email from Tony to you about it on
20 Friday and maybe at some point, when we get that
21 page, we'll include it in here. I noticed that --

22 MR. DIERKER: Well, it's certainly --
23 it's our intention that you have the whole thing.

24 MR. PRAISS: I think there are one or
25 two pages missing that Tony brought to your

1 attention. That's all I want to make sure.

2 Okay. Will you mark this as the next
3 exhibit.

4 (Plaintiffs' 30(b)(6) Exhibit 5
5 marked for identification by the court reporter.)

6 Q (BY MR. PRAISS) I'm handing you
7 what's been marked for identification purposes as
8 Exhibit 5. Mr. Larson, this document, Exhibit 5,
9 is titled City of St. Louis Law Department Police
10 Section Protest Law and it's dated August 16, 2017.

11 Do you see that?

12 A I do.

13 Q Have you ever seen this document
14 before today's deposition?

15 A I have.

16 Q When do you recall seeing it?

17 A I saw it when it was presented and I
18 believe that was on 8/16 when it was presented to
19 the senior command during pre-Stockley training.

20 Q Did you -- is this -- this is not a
21 document you reviewed in preparing for today's
22 deposition?

23 A I did. I would have read it in the
24 course of preparation.

25 Q All right. Because you recall

1 earlier I tried to be as thorough as possible to
2 find out all documents you reviewed. I don't
3 recall -- you mentioned a training document. Is
4 this the document you were referring to?

5 A I did review this training document,
6 or this document prior to our meeting today.

7 Q Okay. Did you make an effort to
8 speak with anybody other than your attorneys about
9 this document, Exhibit 5?

10 A No.

11 Q Okay. Are you aware -- strike that.
12 You mentioned that this was presented
13 to you and others in senior command prior to the
14 Stockley protest?

15 A Yes.

16 Q And when you say senior command, what
17 does that mean?

18 A The senior command would be the
19 chief, the assistant chief, the colonels, the
20 majors, I believe the captains, and perhaps
21 specialized unit lieutenants.

22 Q Do you recall who provided this
23 presentation?

24 A It was the law department, I believe
25 it was Christine Hutson.

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1 Q Do you know if at any time subsequent
2 to the presentation that was made to the senior
3 command, a similar presentation of this document
4 was provided to all police officers?

5 A I believe -- I don't believe so. I
6 don't know. It may have gone out in department
7 mail but I can't recall.

8 Q Okay. This is dated just a few weeks
9 before the Stockley protest; correct?

10 A Yes.

11 Q Do you know if this was prepared
12 specifically in anticipation of the verdict in the
13 Stockley matter?

14 A I believe it was.

15 Q Is it fair to say, is it your
16 understanding that this document purports to
17 reflect the policies and practices of the City of
18 St. Louis for the matters that are identified in
19 it?

20 A Can you repeat that? I'm confused.

21 Q Sure. It's not the clearest
22 question, so thank you for asking me to rephrase.

23 Is it fair to say that Exhibit 5 and
24 the information contained within it about protest
25 law accurately reflects the City's understanding

1 with respect to the matters set forth in the
2 document?

3 A Yes.

4 Q All right. Go to page 17, please, of
5 the PowerPoint.

6 A Yes.

7 Q It's titled Chemical Agents.

8 Do you see that?

9 A I do.

10 Q It says, "In most cases, mandatory
11 warnings must be given prior to using chemical
12 agents as a result of Templeton."

13 Do you see that?

14 A Yes.

15 Q The phrase "In most cases" indicates
16 to me that it's not universal; correct?

17 A Yes.

18 Q And is what we discussed up until now
19 about the use of pepper spray, pepper mace, the
20 only exception whereby mandatory warnings must not
21 be given prior to using chemical agents?

22 A I'm sorry, I'm confused again.

23 Q We discussed the use of pepper spray
24 mace; correct?

25 A Yes.

1 Q And we were talking about it in the
2 context of handheld device by a police officer;
3 correct?

4 A Correct.

5 Q Is that the only situation where a
6 mandatory warning is not required prior to using a
7 chemical agent?

8 A Well, in general, mandatory warnings
9 are required when they're being used for crowd
10 dispersal. So when we're using them as a crowd
11 dispersal tool, then they're going to -- then a
12 mandatory warning is necessary.

13 Q Gotcha. So this document is only
14 dealing with the context of -- strike that.

15 Let's go to the next page, page 18.

16 A Yes.

17 Q Make sure I got the right page here.
18 I'm going to be so upset at myself. Are we missing
19 pages here? Do you have page 18 on yours?

20 A I have page 18.

21 Q You're the only one here that has
22 page 18. It's my lack of -- inability to copy
23 things appropriately. I'm still learning the Xerox
24 machine at the ACLU.

25 MR. DIERKER: You have my sympathy.

1 MR. PRAISS: Thank you. I tried so
2 hard not to bother anybody at the office and this
3 is what I get. I have odd pages. Well, I
4 apologize. We'll make copies of that one but this
5 is to, the extent I deal with odd pages, we'll be
6 in good shape.

7 Q (BY MR. PRAISS) On page 18, am I
8 correct it says, "Which chemical agents are covered
9 by this policy?" And it says, "All of them."
10 Correct?

11 A That is correct.

12 Q Okay. Are there any chemical agents
13 that are not included in the policy dealing with
14 protest law in --

15 A No. Sorry.

16 Q If the chemical composition -- strike
17 that.

18 Am I correct that the chemical
19 composition of pepper spray mace, whether it's in a
20 handheld device or in a fogger, is identical?

21 A The chemical composition of, I'm
22 sorry, the handheld mace and a fogger are
23 identical? I believe they are. I think it's the
24 dispersal method that is different.

25 Q Are you familiar with the Templeton

1 **Settlement Agreement?**

2 A Yes, I mean, I know that it occurred.

3 Q Do you see there's references in the
4 pages that follow that refer in the heading to the
5 Templeton versus Dotson, et al., Settlement
6 Agreement?

7 A Yes.

8 Q Quite a few pages dealing with it?

9 A Yes.

10 Q Have you yourself ever looked at the
11 Templeton Settlement Agreement?

12 A I believe so. I believe it was
13 disseminated to commanders at the time of the
14 agreement.

15 Q Okay. Did you review the Templeton
16 Settlement Agreement in preparation for today's
17 deposition?

18 A I don't believe I did because
19 Templeton was incorporated in the Special Order
20 1-01, Section XIII.

21 Q Did I hear you correctly that
22 Templeton Settlement Agreement -- strike that.

23 Am I correct that the terms of the
24 Templeton Settlement Agreement were incorporated
25 into Section XIII of Special Order 1-01?

1 A Yes.

2 Q Okay.

3 MR. DIERKER: Off the record.

4 (Off the record.)

5 (Plaintiffs' 30(b)(6) Exhibit 6
6 marked for identification by the court reporter.)

7 Q (BY MR. PRAISS) Sir, I'm going to
8 hand you what's been marked as Exhibit 6, which is
9 a copy of the Templeton Settlement Agreement?

10 A Mm-hmm.

11 Q You don't believe you reviewed this
12 in preparing for the deposition?

13 A I don't believe so because I believe
14 the context of it was all incorporated into Special
15 Order 1-01 Section XIII.

16 Q Okay. If you look on the first page,
17 paragraph A at the bottom, and I'll paraphrase
18 generally, do you see that in, first, the
19 defendants and anybody acting on their behalf
20 basically will not enforce any rule, policy, or
21 practice that grants law enforcement officials
22 authority or discretion to do certain things which
23 are set out on page 2?

24 Do you see that?

25 A Yes.

1 Q So to the extent the City of St.
2 Louis had any rule, policy, or practice as of the
3 date of this Settlement Agreement that granted law
4 enforcement officials the authority or discretion
5 of the things that are set forth on the following
6 page, the understanding of the City was that this
7 Settlement Agreement prohibited those practices;
8 correct?

9 A Correct.

10 Q It sets out at two different
11 circumstances where chemical agents could be used
12 on the next page; correct?

13 A Yes.

14 Q And the first one, basically, it
15 precluded police officers as part of the Settlement
16 Agreement from using chemical agents for the
17 purpose of dispersing groups of individuals who
18 were engaged in non-criminal activity in the City
19 unless the full requirements were met; correct?

20 A Correct.

21 Q And the second factor was it
22 prohibited police officers from using chemical
23 agents on individuals who were engaged in
24 non-criminal activity for the purpose of
25 frightening them or punishing them for exercising

1 **their constitutional rights?**

2 A That is correct.

3 Q Okay. There was four requirements
4 **that applied to the first circumstance; correct?**

5 A Yes.

6 Q The first one is that there has to be
7 **a clear and unambiguous warning?**

8 Do you see that?

9 A Correct.

10 Q Second one, there's an opportunity to
11 **heed the warning?**

12 A Correct.

13 Q The third one is a minimized impact
14 **on individuals who are complying with orders; and**
15 **the last one is ensure safe egress is available to**
16 **people.**

17 Do you see those four requirements?

18 A I do, for the individuals engaged in
19 **non-criminal activity.**

20 Q No, this would be for element one for
21 **the purpose of dispersing groups of individuals.**

22 A Who are engaged in non-criminal
23 **activity.**

24 Q Gotcha. With respect to the first
25 **requirement of clear and unambiguous warning, is it**

1 the City's understanding that that warning would,
2 among other things, advise the person that chemical
3 agents would be used?

4 A Yes, we would give a warning that
5 would say failing to comply with X action can
6 result in the deployment of chemical munitions. We
7 would then direct individuals where to go and how
8 to comply, and then we'd try to minimize the effect
9 of the chemical agents if they were deployed.

10 Q And I'm just focusing on the first
11 one. I just want to make sure that my
12 understanding is accurate that the reference to
13 clear and unambiguous warning specifically
14 contemplates a warning that chemical agents would
15 be used absent compliance.

16 A Yes.

17 Q Gotcha. With respect to minimize
18 impact on individuals who are complying with the
19 order in that situation, is it -- do you agree that
20 it is easier for police officers to comply with
21 this requirement if they use a handheld pepper
22 spray device as compared to a fogger? Let me ask
23 it differently.

24 Would you agree that foggers tend to
25 spray a larger area and, therefore, more likely to

1 impact a greater number of individuals than a
2 handheld device?

3 A Yes.

4 Q So if the objective is to minimize
5 the impact on individuals who are complying with an
6 order with respect to this requirement, you would
7 agree with me that using a handheld device would be
8 more appropriate?

9 A It may be.

10 Q Do you see that there is a definition
11 of "chemical agents" included as part of Settlement
12 Agreement?

13 A I'm sorry -- oh, what -- yeah, under
14 1, where it says, yes, that there are a range of
15 chemical, that all would be collectively referred
16 to as chemical agents.

17 Q Okay. So again, the answer to my
18 question is, there is a specific definition for the
19 term "chemical agents" as it's used in the
20 Templeton Settlement Agreement; is that a fair
21 statement?

22 A Yes.

23 Q And that definition includes tear
24 gas, inert smoke, pepper gas, or other chemical;
25 correct?

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1 A Yes.

2 Q And I think we established it before
3 but again, you agree with me that pepper spray, OC
4 spray and mace all have the same chemical
5 composition; correct?

6 A Yes.

7 Q And am I correct that the definition
8 of "chemical agents" and in the Templeton
9 Settlement Agreement does not distinguish based on
10 the manner by which the pepper gas would be
11 deployed against protesters?

12 A It does not.

13 Q Am I correct there's no language in
14 the Templeton Settlement Agreement that indicates
15 that pepper gas deployed using an individual
16 handheld device is not included in the definition
17 of "chemical agents"; is that correct?

18 A That is correct.

19 Q And am I correct there is no language
20 in the Templeton Settlement Agreement that
21 indicates that only pepper gas deployed using a
22 fogger is included in the definition of "chemical
23 agents"; is that correct?

24 A I'm sorry, I'm confused.

25 Q I'll ask -- I'm covering all kinds

1 of --

2 A I'm focusing on what you're saying to
3 make sure that I'm understanding as I don't want to
4 answer incorrectly.

5 Q I appreciate it. Am I correct there
6 is no language in the Templeton Settlement
7 Agreement that indicates that only pepper gas
8 deployed using a fogger is included in the
9 definition of "chemical agents"; is that correct?

10 A I believe that's correct.

11 Q Bottom line, regardless how pepper
12 spray is deployed, it is covered within the
13 definition of "chemical agents" under the Templeton
14 Settlement Agreement?

15 A Yes.

16 Q Gotcha. I have a long question.

17 A Okay.

18 Q And I'm going to read it. If you
19 need me to repeat it, I'm happy to do so.

20 Under the Templeton Settlement
21 Agreement, do you agree that absent circumstances
22 that present imminent threat of bodily harm, police
23 officers could not use handheld pepper spray for
24 the purpose of dispersing groups of individuals
25 engaged in non-criminal activity without, among

1 other things, first providing a clear and
2 unambiguous warning that chemical agents would be
3 utilized and providing those individuals with
4 sufficient opportunity to heed the warning and exit
5 the area?

6 A Yes.

7 Q Under the Templeton Settlement
8 Agreement, do you agree that absent circumstances
9 present imminent threat of bodily harm, police
10 officers could not use handheld pepper spray on
11 individuals engaged in non-criminal activity for
12 the purpose of frightening them or punishing them
13 for exercising their constitutional rights?

14 A That is correct.

15 Q Okay. Thank you.

16 A Is this a good time for a break?

17 MR. PRAISS: Absolutely. You've got
18 the toughest job here today. Well, she has the
19 toughest job, I take it back. Tara has the hardest
20 job. But when either of you need a break,
21 seriously, just let me know. As long as I ask --
22 don't ask for a break when there's a question
23 pending. That's all.

24 THE WITNESS: No, of course not.

25 (Off the record.)

1 (Plaintiffs' 30(b)(6) Exhibit 7
2 marked for identification by the court reporter.)

3 Q (BY MR. PRAISS) Mr. Larson, I've
4 hand you had what's within marked as Exhibit Number
5 7.

6 Do you see that?

7 A I do.

8 Q And it says Declaration of Jerome
9 Baumgartner that was submitted as Defendant's
10 Exhibit 1 in connection with a preliminary
11 injunction hearing I'll represent to you?

12 A Yes.

13 Q So it's part of a court file. Have
14 you ever seen this exhibit before today?

15 A I have not seen the Declaration. I
16 have seen the Special Order behind it.

17 Q Perfect. If you go to paragraph 6 of
18 Mr. Baumgartner's Declaration, I'll read it into
19 the record. "On January 7, 2015, a temporary
20 directive on the use of chemical agents for
21 dispersing groups engaged in peaceful, non-criminal
22 activity was put in immediate effect, pursuant to
23 the matter then before the US District Court and is
24 attached as Exhibit B."

25 Do you see that?

1 A I do.

2 Q Okay. If you could go to Exhibit B,
3 please, of Mr. Baumgartner's Declaration, and do
4 you see at the top of it, it says Directive
5 2015-01-07?

6 Do you see that?

7 A Yes.

8 Q Am I correct that's -- the date there
9 is referring to July 1, 2015? Is that your
10 understanding?

11 A That is correct.

12 Q Okay. Am I correct the directive
13 went into effect on that date?

14 A Correct. This is considered a
15 temporary directive by the St. Louis Police
16 Department and it was put into effect.

17 Q Okay. Take as much time as you need
18 just to refresh your recollection of the terms of
19 the temporary directive and I'll ask you some
20 questions about it. Let me know when you're ready.

21 A Okay. I believe I'm ready.

22 Q And if you could compare the terms of
23 the temporary directive to the terms of the
24 Templeton Settlement Agreement, let me know when
25 you have those side by side, I'll ask you some

1 questions.

2 A Okay.

3 Q Am I correct that to a large extent,
4 that temporary directive tracks the approach taken
5 under the Templeton Settlement Agreement in terms
6 of laying out under what circumstance, if any,
7 police could use chemical agents in the context of
8 dispersing groups of individuals?

9 A It does.

10 Q Okay. Am I correct that the
11 temporary directive includes the same essential
12 requirements before chemical agents could be used
13 to disperse groups of individuals who are engaged
14 in peaceful, non-criminal activity; am I correct?

15 A You are correct.

16 Q Okay. Am I correct that the
17 temporary directive, similar to the Templeton
18 Settlement Agreement, includes a definition for
19 "chemical agents"?

20 A It does.

21 Q Am I correct that the definition of
22 "chemical agents" in the Templeton Settlement
23 Agreement and in the temporary directive is
24 identical?

25 A Yes.

1 Q So is it fair to say all the answers
2 to the questions I asked you before, with respect
3 to the Templeton Settlement Agreement, in terms
4 what's included or not included, applies here?

5 A Yes.

6 Q And in particular, am I correct that
7 the temporary directive does not distinguish in any
8 way, based on the manner by which pepper gas would
9 be deployed against protesters?

10 A It does not speak to the manner of
11 deployment.

12 Q So am I correct that the temporary
13 directive applies to pepper spray regardless
14 whether it's deployed using a handheld device, a
15 fogger, or some other device?

16 A It does.

17 Q Okay. I got two long questions for
18 you again. I'll go slow to make sure you have a
19 chance to absorb it.

20 Am I correct that under the temporary
21 directive, police officers could not use handheld
22 pepper spray for the purpose of dispersing groups
23 of individuals engaged in peaceful, non-criminal
24 activity without, among other things, first
25 providing a clear and unambiguous warning that

1 chemical agents will be utilized and providing
2 those individuals with sufficient opportunity to
3 heed the warning and exit the area?

4 A Yes.

5 Q Okay. Am I correct that under the
6 temporary directive, police officers could not use
7 handheld pepper spray on individuals engaged in
8 peaceful, non-criminal activity for the purposes of
9 frightening them or punishing them for exercising
10 their constitutional rights?

11 A Yes.

12 Q Thank you. If you go to Mr.
13 Baumgartner's Declaration and look on paragraph 7,
14 it indicates that the "temporary directive was sent
15 to all commissioned officers via the Policy
16 Acknowledgment System for review and
17 acknowledgment."

18 Do you see that?

19 A I do.

20 Q Okay. The Policy Acknowledgment
21 System is abbreviated as the PAS System?

22 A PAS System.

23 Q Thank you. When something like the
24 temporary directive is sent to all commissioners
25 and officers using a PAS System, is a complete copy

1 of the temporary directive sent or is it just a
2 short, brief summary?

3 A No, the entire -- the entire
4 directive, the text of -- this text would be sent.

5 Q Okay. Are there times when the PAS
6 System is used as a vehicle for training purposes
7 where, rather than attach the actual document, a
8 just one or two line sentence abbreviation is
9 provided?

10 A It can be used as a notification
11 method, much like you're describing. It can also
12 be used as a training where it links to certain
13 videos and things would be supplied.

14 Q Okay. With respect to, for example,
15 the use of force policy, for example -- when I say
16 the use of force policy, what do you understand
17 that to mean?

18 A The use of force policy would be the
19 policy that is outlined in Special Order 1-01.

20 Q The entirety of Special Order 1-01?

21 A Yes.

22 Q Okay. Is there -- is the PAS System
23 used with respect to ensuring that police officers
24 are up to date on their knowledge of Special Order
25 1-01?

1 A It is.

2 Q When that's done, how is that
3 information conveyed to police officers using the
4 PAS System?

5 A Monthly a notice is sent from the PAS
6 System to all commissioned members of the
7 department, I believe it would go even all members
8 of the department, and within that guideline is
9 this is the monthly use of force reminder. As part
10 of that, there will be a test as far as several
11 questions regarding specific elements of use of
12 force.

13 And the employee reviews the order,
14 can review the order, it's there in its entirety,
15 and then can -- and then takes the test, which they
16 have to pass before the order is considered signed.

17 Q Is the entirety of Special Order 1-01
18 included as part of that communication to the
19 commission officers?

20 A A link. There's a button on the side
21 that says "Review." When you hit the "Review," it
22 will generate the order.

23 Q Is it a requirement that they review
24 the Special Order or is it sufficient that they
25 simply answer the questions?

1 A They must answer the questions to
2 sign the order. They are not required to review
3 the order in order to sign it.

4 Q Is there a requirement that they have
5 to answer all the questions correctly in order to
6 pass?

7 A Yes.

8 Q All officers getting the same
9 questions at the same time?

10 A There is a multiple rotating number
11 of questions that officers are sent, so it's not
12 the same exact test every month.

13 Q Okay. If you look at paragraph 8 of
14 Mr. Baumgartner's Declaration, if you take a minute
15 to read that? You see that indicates that the
16 temporary directive we have been looking at,
17 Exhibit B to Mr. Baumgartner's Declaration, became
18 Section XIII of Special Order 1-01 which was issued
19 on July 10, 2015.

20 Do you see that?

21 A I do.

22 Q And it indicates in that, "Section
23 XIII of Special Order 1-01 outlines the policy for
24 deployment of chemical agents for crowd dispersal,
25 and identifies the restrictions, consistent with

1 the Settlement Agreement issued by the US District
2 Court" in the Templeton matter; correct?

3 A Yes.

4 Q Okay. Is it fair to say that Section
5 XIII of Special Order 1-01 was implemented pursuant
6 to the Templeton Settlement Agreement?

7 A Yes.

8 Q Is it fair to say that in adopting
9 Section XIII of Special Order 1-01, the City wanted
10 this new provision to be consistent with the terms
11 of the Templeton Settlement Agreement?

12 A Yes.

13 Q Other than Section XIII of Special
14 Order 1-01, as of September 2017, the City have any
15 other policies relating to when police officers
16 could deploy chemical agents for crowd dispersal?

17 A No.

18 Q Other than Section XIII of Special
19 Order 1-01, does the City presently have any other
20 policies relating to when police officers can
21 deploy chemical agents for crowd dispersal?

22 A No.

23 Q If you go to Exhibit C of Mr.
24 Baumgartner's Declaration, am I correct that has
25 Section XIII of Special Order 1-01?

1 A Yes.

2 Q Please take as much time as you need
3 to review Special Order XIII. Let me know when
4 you're ready.

5 A I believe I'm ready.

6 Q Okay. Is this is one of the
7 documents you specifically testified before you
8 reviewed in preparing for today's deposition?

9 A It is.

10 Q Gotcha. Did you speak with anyone
11 other than the City's attorneys with respect to
12 Special Order XIII?

13 A I did not.

14 Q And I misspoke. Section XIII of
15 Special Order 1-01.

16 A No, I'm sorry, I did not.

17 Q And am I correct that nowhere in
18 Section XIII of Special Order 1-01 is there a
19 definition for the term "chemical agents"?

20 A There is not.

21 Q Okay. Help me understand, if the
22 City's stated objective was to issue Special Order
23 -- strike that.

24 Help me understand if, as you
25 testified, the City's objective was to issue

1 Section XIII of Special Order 1-01 consistent with
2 the terms of the Templeton Settlement Agreement,
3 why did the City choose not to include a definition
4 for "chemical agents"?

5 A We didn't include a definition but
6 they included the listing of chemical agents under
7 Section A. Chemical agent equipment. So we didn't
8 define "chemical agents." We listed them, those
9 that were available to the SWAT unit.

10 Q Could you please compare the
11 definition of -- specifically look at the
12 definition of "chemical agents" both in the
13 Templeton Settlement Agreement and the temporary
14 directive, and confirm to me whether all the items
15 identified in those definitions are included in
16 Section XIII of Special Order 1-01.

17 A I believe they are.

18 Q Do you see a reference to the term
19 "tear gas," for example?

20 A I do.

21 Q That's included in the Settlement
22 Agreement and the temporary directive; correct?

23 A It is.

24 Q Is that included anywhere on Section
25 XIII, Special Order 1-01?

1 A It is under CS gas. CS gas is
2 considered a tear gas, versus OC, which is
3 considered a mace.

4 Q Is it your testimony that the
5 language used under the term "chemical agent
6 equipment" in Section A of Special -- of Section
7 XIII of Special Order 1-01 essentially has exactly
8 the same meaning as the definition of "chemical
9 agents" in the Templeton Settlement Agreement and
10 the temporary directive?

11 A Yes.

12 Q Okay. I think we have established
13 unequivocally that it's the City's understanding
14 that under the Templeton Settlement Agreement and
15 the temporary directive, that they both include
16 pepper spray in any form, whether deployed using a
17 handheld device or a fogger; correct?

18 A Yes.

19 Q Is it the City's understanding that
20 handheld pepper spray is or is not included under
21 Section XIII of Special Order 1-01?

22 A I believe it would be included.

23 Q Is there any training provided to
24 police officers specifically about that issue,
25 whether handheld pepper spray is covered under

1 Section XIII of Special Order 1-01 or is it
2 exclusively covered under the Section VI that we
3 looked at before about handheld pepper spray?
4 Mace?

5 A As it relates to dispersement and
6 crowd, it would be listed here in XIII. As it
7 relates to the individual officers' use for
8 affecting arrests of individuals under general
9 circumstances, the deployment methodology is listed
10 in Section VI.

11 Q Would you agree with me that it's not
12 difficult to envision circumstances where those two
13 circumstances conflate and get very close to one
14 another?

15 A Yes. I would agree with that.

16 Q For example, in the situation of a
17 kettle, a police officer standing at that moment,
18 trying to interact with a protester, in his or her
19 mind could think, I am under -- my actions are
20 governed by Section VI because I'm trying to
21 effectuate an arrest, or equally could think, no,
22 my actions are governed by Section XIII because
23 we're trying to disperse the heck out of this crowd
24 and they've ignored dispersal orders.

25 That's very plausible; right?

1 A Yes.

2 MR. DIERKER: I'm a little late in my
3 objection to the form, but...

4 MR. PRAISS: It's quite all right.

5 Q (BY MR. PRAISS) And recognizing that
6 the scenario that I'm laying out there is quite
7 possible -- plausible, I misspoke, my question is,
8 again, are you aware of any specific training
9 provided to police officers who find themselves in
10 that situation where they're trying to decide am I
11 going to be under Section VI or Section XIII of
12 Special Order 1-01 in terms of how I use this
13 handheld device?

14 A I am not aware of any specific
15 training related to that.

16 Q Okay. Are you aware of any documents
17 that deal with that issue?

18 A No, not outside the orders we've
19 discussed.

20 Q Are you aware of any specific
21 communications using the PAS System where it was
22 communicated to police officers at any time, before
23 or after the Stockley protests, saying there's two
24 different provisions that handheld pepper mace are
25 covered by, Section VI and, yes, it's also covered

1 under Section XIII, and here is which one applies
2 under what circumstances.

3 Has that ever been done, to your
4 knowledge?

5 A No.

6 Q Okay.

7 MR. DIERKER: Excuse me. But we've
8 been referring to Section VI.

9 A It's actually Section IV.

10 MR. DIERKER: And it's actually
11 Section IV.

12 Q (BY MR. PRAISS) When I said Section
13 VI in the last few minutes a couple times, you
14 understood I was referring to Section IV, which is
15 the provision we looked at and we marked before
16 dealing with handheld mace; correct?

17 A I understood you to be referring to
18 the section of the order that refers to mace.

19 Q Thank you very much, and thank you
20 for correcting me. I said it once and no one
21 corrected me, so I kept saying it.

22 MR. DIERKER: Well, I needed to
23 double check myself, so.

24 A And I think that was my fault. I
25 misquoted the Roman numerals in my initial

1 statement.

2 Q (BY MR. PRAISS) I'm still trying to
3 understand why, from a practical perspective, when
4 the issue -- when the City issued the Templeton --
5 the temporary directive, it made a conscious
6 decision to track the language in the Templeton
7 Settlement Agreement. You recall that?

8 A I was not part of the creation of the
9 temporary directive, but yes, the intent was to
10 mirror the Settlement Agreement.

11 Q And you've testified as a
12 representative that the same intent applied when
13 the City adopted Section XIII of Special Order
14 1-01. Correct?

15 A Yes.

16 Q Recognizing that, is there a reason
17 why the City did not track and include that same
18 definition for "chemical agents" but rather just
19 blended it in in different sections of 1 and 2
20 under the heading A? If you are aware of any
21 reason?

22 A I'm not aware of any reason.

23 Q Okay. But it is your testimony, as
24 the corporate representative today, that handheld
25 pepper spray, to the extent it's used in connection

1 with crowd dispersal, is included within the terms
2 and requirements of Section XIII of Special Order
3 1-01?

4 A Yes.

5 Q Okay. So to the extent an officer in
6 connection with let's say the kettle understood
7 they were trying to disperse the individuals for
8 failure to heed their warnings of dispersal, that
9 officer's conduct should be judged under Section --
10 the terms of Section XIII of Special Order 1-01?

11 A Yes.

12 Q Okay.

13 MR. DIERKER: Would now be a good
14 time to break for lunch?

15 MR. PRAISS: This is probably less
16 than five minutes. A few questions here and --
17 even though this was previously marked, could you
18 add the stickers?

19 (Plaintiffs' 30(b)(6) Exhibit 8
20 marked for identification by the court reporter.)

21 Q (BY MR. PRAISS) Mr. Larson, I'm
22 going to hand you what's been marked as Deposition
23 Exhibit 8. Do you have that?

24 A Yes, you've given it to me.

25 Q Do you see at the very top it

1 indicates this is a picture that was taken from
2 Washington and Tucker?

3 A Okay.

4 Q Do you see the number 2? Do you know
5 what that signifies, if anything, next to
6 Washington and Tucker top left?

7 A I assume it's a camera.

8 Q And if you look carefully on the
9 bottom in blue, you can read that it looks like it
10 was taken around 11:30 p.m. on September 17, 2017.

11 Do you see that?

12 A Yes, it appears to be a time stamp.

13 Q Do you recognize this to be a picture
14 of the police surrounding the individuals in what
15 is known as the kettle?

16 A It is a picture that represents
17 officers around individuals. We don't in the
18 police department recognize the term "kettle," so
19 any questions that you have on that, I'm a bit --

20 Q You do know we have two topics that
21 use the term "kettle"?

22 A Yes, I saw that in here, but...

23 Q Is there a different term that you
24 prefer for me to use --

25 A No.

1 Q -- that captures that moment when the
2 police came in from four different directions and
3 surrounded a bunch of protesters?

4 A I will say this picture indicates
5 what appears to be a mass arrest scenario.

6 Q Do you recognize this to be at the
7 corner of Washington and Tucker where the kettle
8 took place?

9 A Yes.

10 Q Gotcha. And the timing of it
11 corresponds to when the kettle took place, around
12 11:30 p.m.; correct?

13 A Yes.

14 Q Can you see, literally right in the
15 middle of the picture, there is a nice foggy area
16 there.

17 Do you see that?

18 A Mm-hmm, I do.

19 Q Do you recognize that to be spray
20 from a fogger being used against the individuals in
21 that area?

22 A It could be. I can't say what it is.

23 Q Okay. Would you agree with me that
24 in the situation -- assuming that when the judge
25 looks at the video and you watch it slowly, it

1 becomes abundantly clear that there is an OC spray
2 being used to effectuate against the people there.

3 A Mm-hmm.

4 Q Help me understand, in light of the
5 Section XIII of Section 1-01, that includes the
6 requirement that chemical agents would not be used
7 unless the third requirement being that the impact
8 of chemical agents on individuals who are complying
9 with lawful law enforcement commands is minimized,
10 how is the use of a fogger in this situation
11 consistent with that restriction?

12 MR. DIERKER: I'll object to the form
13 of the question, it assumes facts not in evidence,
14 calls for an opinion, speculation. But you may
15 answer.

16 A At this point, they may be effecting
17 arrests and there may be resistings occurring. I
18 can't say that, at this point in time, that the
19 four elements of giving the warning, attempting to
20 get those who wished to comply the opportunity to
21 comply, that has or has not occurred, I can't say,
22 but, you know, based on this picture, it is very
23 difficult, when using a fogger, to minimize the
24 risks to those in the immediate area, including
25 other police officers.

1 Q (BY MR. PRAISS) And with that in
2 mind, why is the use of a fogger used specifically
3 in these context, knowing that it, by definition,
4 is contrary to the restriction about minimizing the
5 harm to other people who are being compliant and
6 lawful?

7 A I can't answer that.

8 Q Again, you're the City's
9 representative, so the buck stops with you for
10 better or worse today, Mr. Larson --

11 A I understand, sir.

12 Q -- and you are on the hot seat.

13 A Yes.

14 Q You know, this is the Special Order
15 that governs the dispersal, the deployment of
16 chemical agents for crowd dispersal. Under
17 Chemical Agent Equipment it specifically identifies
18 high-capacity, extended-range OC spray being issued
19 to sergeants; correct?

20 A Yes.

21 Q That high-capacity, extended-range OC
22 spray, by definition, covers a large area unlike a
23 handheld pepper spray device; correct?

24 A It does.

25 Q Okay. And am I correct that

1 high-capacity, extended-range OC spray was in fact
2 utilized in connection with the Stockley protest;
3 correct?

4 A It was.

5 Q My question to you is, as a policy,
6 why does the City have -- allow the use of
7 high-capacity, extended-range OC spray in the
8 context where there is a group of individuals when
9 it's very likely that within them there may be some
10 who are complying and acting lawfully, which would
11 then mean it contravenes the Special Order?

12 MR. DIERKER: Object to the form of
13 the question.

14 A I would say that as -- it's a tool,
15 as any other tool, and the application for it
16 depends on the -- on the circumstances. So the
17 fact that we are not restricting the tools that are
18 available, it may not have been the best tool to be
19 utilized at the time, but in the event of it, is a
20 tool that is available for use and, therefore, we
21 don't restrict the use of it.

22 Q (BY MR. PRAISS) You are aware that
23 high-capacity, extended-range OC spray was in fact
24 utilized in connection with the Stockley protest?

25 A Yes.

1 Q To the extent it was used rather than
2 handheld device, do you agree that that likely
3 violated the restrictions about trying to minimize
4 the impact of chemical agents on individuals who
5 were compliant because instead a handheld device
6 should have been used?

7 A Can you give that to me again?

8 Q Sure. I think we've established that
9 at different points in time, and in particular in
10 connection with the kettle, high-capacity,
11 extended-range OC spray was utilized; correct?

12 A Correct.

13 Q And I think we've established that
14 the use of high-capacity, extended-range OC spray
15 covers a larger area than a handheld pepper spray;
16 correct?

17 A Correct.

18 Q And as a result, the use of
19 high-capacity, extended-range OC spray likely will
20 impact individuals who may be lawful and compliant;
21 correct?

22 A It can.

23 Q And my question to you is, do you
24 agree that the use of high-capacity, extended-range
25 OC spray in the context of, let's say, the kettle,

1 where there was a significant number of people,
2 some of whom were acting lawfully and just got
3 caught up in the situation, rather than handheld
4 device, contravened Section XIII of Special Order
5 1-01 because a handheld device, unlike the OC
6 spray, would have minimized the impact?

7 A No, because the -- also in Special
8 Order is the statement that the above provisions do
9 not apply to situations that turn violent when
10 persons at the scene present immediate threats to
11 bodily injuries, property damage, things of that
12 nature, so that would take out the minimization
13 requirement there. So I think we agree in
14 principle but perhaps in execution is where we're
15 having the issue.

16 Q I like the fact that you went to that
17 provision as your so-called safety net here, Mr.
18 Larson, but I'm going to probe a little bit about
19 that.

20 A Of course you are.

21 Q In connection with the kettle -- and
22 I know you may not like the term but it's an easy,
23 short-term abbreviation for what happened around
24 11:30 at night on September 17th. Are you aware of
25 any individuals who were acting violently at the

1 scene such that they presented an imminent threat
2 of bodily harm to persons or damage to property
3 when officers tried to arrest them?

4 A No.

5 Q Okay. Because I have not seen any
6 when I looked at the videos and am I correct also
7 that in fact none of the arrests were for acting
8 violently? Nobody was charged with violent
9 destruction of property in connection with the
10 kettle; correct?

11 A Not in connection with the kettle.

12 Q So I'll go back my question where you
13 resorted to what I'm calling your little safety net
14 here.

15 A Sure.

16 Q In connection with the kettle, where
17 we've now established there was no evidence --
18 there is no evidence of anybody acting in a violent
19 manner that presented imminent threat or bodily
20 harm to persons or of damage to property, am I
21 correct that the use of the high-capacity,
22 extended-range OC spray, rather than the handheld
23 pepper spray, contravened the terms of Section XIII
24 of Special Order 1-01 because, by definition, it
25 was going to impact a greater number of individuals

1 **who were compliant with law enforcement?**

2 A No, I don't think so. I'm confused
3 over the totality of the circumstances that took
4 place during the effecting the arrests as far as
5 utilizing this tool or not utilizing the tool.

6 Q I'm going to go through it one more
7 time and I'll accept your answer, whatever it is at
8 the end, but I'm a little perplexed here.

9 A Okay.

10 Q We have a situation where around
11 11:30 there is a kettle, there is a group of
12 people.

13 A Okay.

14 Q You agree with me that it's likely
15 that within that group of people some people
16 weren't even protesters, they just got caught up in
17 the situation; correct?

18 A I believe that is one of the
19 contentions.

20 Q Yes. And we established that there's
21 no evidence that anybody was acting violently and
22 presented imminent threat of harm at that moment in
23 time around 11:30 at night; correct?

24 A Yes, we have established that.

25 Q Okay. Police officers had -- were

1 **trying to effectuate arrests; correct?**

2 A Yes, they were trying to a mass
3 arrest of all the individuals there.

4 Q But none of those individuals are
5 acting violently and presenting imminent threat of
6 harm to them?

7 A I --

8 Q Are you aware of any evidence, sir,
9 facts, that somebody was acting in a violent manner
10 and presented imminent threat of harm that was
11 documented by the police from the incident that
12 occurred at 11:30 at Tucker and Washington?

13 A I am not.

14 Q Thank you. So again, with that in
15 mind, the police officers that were congregating
16 around the people there, they had a choice; would
17 you agree with me? Option 1, they can go and
18 effectuate their arrests using a handheld pepper
19 spray device; correct?

20 A Mm-hmm.

21 Q Is that a yes?

22 A Yes.

23 Q Or they can do it using the
24 high-capacity, extended-range OC spray; correct?

25 A Correct.

1 Q And by definition, we have
2 established that the high-capacity, extended-range
3 OC spray, by its nature, is going to cover a larger
4 range and spray a bunch of people?

5 A Yes.

6 Q If the requirements of the Section
7 XIII, the third one is specifically saying that you
8 cannot, per the terms of the Settlement Agreement,
9 deploy chemical agents without satisfying all four
10 elements and the third one is to minimize the
11 impact on individuals, shouldn't those officers
12 have been required to use handheld device rather
13 than the OC spray?

14 A I'm sorry, I'm processing.

15 Q Take your time.

16 A It would have been better to minimize
17 the effects, I think, that to -- than using the
18 fogger. So to minimize the effects to those who
19 are not -- who are compliant. But yes.

20 Q I'll accept that.

21 A Okay.

22 Q Let's do one more picture and then
23 we'll take a break.

24 (Plaintiffs' 30(b)(6) Exhibit 9
25 marked for identification by the court reporter.)

1 Q (BY MR. PRAISS) Mr. Larson, do you
2 have Exhibit 9 in front of you?

3 A I do.

4 Q This is another picture, if you look
5 again at the top, it's indicates from the
6 Washington and Tucker location?

7 A Yes.

8 Q And the time stamp on this one is
9 just a few minutes before. It's at 11:25, again on
10 September 17, 2017.

11 Do you see that?

12 A Yes.

13 Q There is a -- if you look at the
14 picture on the right side of it, do you see a
15 police officer with a gas mask on and his right
16 hand extended?

17 A Yes.

18 Q And can you tell that that officer is
19 holding in his right hand an extended
20 high-capacity, OC spray device?

21 A That's what it appears to be.

22 Q And do you see just right outside of
23 it a mist in that area?

24 A Yes.

25 Q Again, in that situation the officer

1 is directing that OC spray, it appears, based on
2 the position of his hand, at the person who is
3 standing with his hands up, or I don't know who
4 else. Can you see who else it's pointing at?

5 A It's pointing in the general
6 directions of an individual with his hands up and
7 there is an individual that appears to be in front
8 of the officer. That's moving downward.

9 Q Oh, the -- when you say "moving
10 downward," are you pointing to the lady with her
11 hands down?

12 A I'm pointing to this individual here.

13 Q Okay. Do you agree with me that the
14 use of the OC spray device in that situation, by
15 definition, would impact a great deal of people
16 because they're all congregating in a very small
17 area?

18 A Yes.

19 Q Okay. Do you agree with me again, it
20 would have been preferable, at a minimum, to use
21 your language, to use a handheld pepper spray
22 device rather than the OC spray if your goal is to
23 be compliant with the terms of Section XIII of
24 Special Order 1-01?

25 A Yes.

1 Q Thank you.

2 MR. PRAISS: Why don't we take a
3 break.

4 (Off the record.)

5 Q (BY MR. PRAISS) Okay, Mr. Larson,
6 back on the record, we had a nice kind of lunch
7 break. If at any time later this afternoon you
8 need to take a break again, just let me know.

9 A I will, thank you.

10 Q I want to close off a few more
11 questions and then we'll move on to a new topic, I
12 assure you, but I still want to focus on topics 12
13 through 15, make sure I've covered everything.

14 A Okay.

15 Q If you look at the exhibit that was
16 the Declaration of Mr. Baumgartner, do you have
17 that? I think it's number 7?

18 A I do.

19 Q And if you go to Exhibit C within
20 that which is Section XIII of Special Order 1-01?

21 A Yes.

22 Q There is the reference under Section
23 A 2 that "High-capacity, extended-range OC spray is
24 also issued to Sergeants and available at the Area
25 Stations."

1 A Yes.

2 Q I just wanted to ask it, other than
3 sergeants, does anybody else have use of -- had use
4 of extended-range OC spray in connection with the
5 Stockley protests?

6 A It was issued primarily to
7 supervisors. I can't say that it wasn't issued or
8 delegated to someone else, but for the most part,
9 the high-capacity, extended-range deployment
10 canisters was for the sergeants only.

11 Q And when it has a reference to the
12 term "Area Stations," what is that referring to?

13 A That refers to the three area patrol
14 divisions. We have a north patrol, a central
15 patrol, and a south patrol division.

16 Q Okay. If you go to -- on the next
17 page of it, there's Section D, Required Reporting?

18 A Yes.

19 Q And it indicates that, "When chemical
20 agents are deployed for crowd dispersal, the
21 Incident Commander will ensure that an I/LEADS,"
22 all capital, "report is created to document their
23 use," and it lays out certain details that have to
24 be included.

25 Do you see that?

1 A Yes.

2 Q First of all, just for the record,
3 who was the incident commander for the Stockley
4 protest?

5 A I believe the incident commander was
6 Gerald Leyshock.

7 Q And do you know -- first of all, what
8 is the purpose of creating an I/LEADS report?

9 A To document the -- I/LEADS is our
10 records management system and the purpose of
11 creating it is to document incidents, both arrest
12 and the non-arrest situations, where we want to
13 have a record of it, so it's our -- it's how we
14 document police reports primarily.

15 Q And in this case particularly, it's
16 the I/LEADS -- strike that.

17 So the I/LEADS report can be used for
18 various different reporting scenarios; correct?

19 A Yes.

20 Q But in this case it specifies that an
21 I/LEADS report has to be created whenever chemical
22 agents are deployed for crowd dispersal; correct?

23 A It does.

24 Q Okay. And that's the policy of the
25 City of St. Louis?

1 A Yes.

2 Q Okay. Are I/LEADS reports, are they
3 created by hand or on a computer?

4 A They are created in a computer. It
5 is a records management software tool that
6 basically is a framework device that -- and
7 information is entered manually into it.

8 Q Is it a searchable database?

9 A It is.

10 Q So if I wanted to find all the
11 I/LEADS report relating to the protests that -- on
12 the issue of the Stockley protests or the Molina
13 protests, the protests involving the Molina case,
14 it's not difficult to locate them, I assume?

15 A No, not if a report was prepared.

16 Q Okay. In those situations chemical
17 agent were deployed; correct?

18 A Then a report would be prepared and
19 we would have it.

20 Q Okay. When a report is prepared, is
21 it the standard practice that the one report is
22 used to encompass all incidents where chemical
23 agents are deployed, or is there a requirement that
24 for each incident where agents were deployed
25 against an individual or group of individuals,

1 **there's a separate report?**

2 A It can be done both ways. It's
3 generally reports are created based on arrest
4 criteria, because when we arrest an individual, we
5 need their pedigree information, their charge
6 information, all of that, and that revolves around
7 a specific complaint number.

8 If multiple arrests are occurring in
9 a specific vicinity with the -- a substantially
10 same group of officers, it could all be included in
11 one complaint number. If this was multiple
12 locations, multiple commanders, then it might be
13 included -- the incidents may come under multiple
14 complaint numbers.

15 Q **For example, in the situation of the**
16 **kettle on September 17, 2017, if at that evening**
17 **several different officers deployed chemical agents**
18 **at different groups of individual, would it have**
19 **been appropriate to have one single I/LEADS report**
20 **or several?**

21 A It would most likely be most
22 appropriate to have one large because we're dealing
23 with one large incident in the downtown area.
24 However, that's not to say there weren't other
25 reports made based on, you know, if other officers

1 in the fourth district may have made an arrest
2 downtown, that would have a separate complaint
3 number.

4 Q And to your knowledge, was an I/LEADS
5 report prepared either in the single or plural in
6 connection with the Stockley protests?

7 A I believe there were reports
8 prepared, yes.

9 Q Okay. Is it your understanding,
10 trying to be thorough here, that I/LEADS report,
11 either in plural or single, were prepared in
12 connection with the protests at Page and Walton
13 that are referenced in the Molina litigation?

14 A Yes.

15 Q And if I understood you correctly
16 before, your testimony was that Section XIII of
17 Special Order 1-01 that we're looking at applies to
18 the same chemical agents that were referenced in
19 the Templeton Settlement Agreement as well as the
20 temporary directive; correct?

21 A Yes.

22 Q And such that this Section XIII of
23 Special Order 1-01 applies to the use of handheld
24 pepper spray if it's done in connection with the
25 dispersal of individuals?

1 A Yes.

2 Q Okay. And in those situations, to
3 the extent that a police officer used handheld mace
4 in connection with the kettle, would an I/LEADS
5 report have to be generated or reference that
6 incident?

7 A Yeah, in a mass arrest scenario, if
8 an officer was deploying mace to take individuals
9 into custody, it should be documented, yes.

10 Q Okay. So this gets to, in my mind a
11 little bit, that blurry line between Section IV,
12 Special Order 1-01 versus Section XIII. When an
13 officer deploys handheld pepper spray under the
14 terms of Section IV, Special Order 1-01, is an
15 I/LEADS report required?

16 A It is.

17 Q It is?

18 A Yes, under Section IV, it's a use of
19 force; therefore, it would require an I/LEADS
20 report.

21 Q Okay. Thank you for clarifying that
22 for me. Just want to now close the loop on some of
23 these topics if you have them in front of you.

24 A Sure.

25 Q Topic 12, I'll read it for the

1 record, it says, "The City of St. Louis's policies
2 and/or practices concerning under what
3 circumstances police officers can use handheld
4 chemical agents, regardless of size of container."

5 Do you see that?

6 A Yes.

7 Q Is it fair to say that you have
8 provided me -- strike that.

9 Is it fair to say that the testimony
10 you've provided with respect to Section IV of
11 Special Order 1-01, as well as Section XIII of
12 Special Order 1-01, cover all the circumstance when
13 a handheld chemical agent could be used, regardless
14 of size or container?

15 A Yes.

16 Q There is no other provisions that the
17 City has that deal with the use of handheld pepper
18 spray in different circumstances?

19 A No, I believe those are the two.

20 Q Okay. Go to topic 13. That one
21 focuses on training with respect to exactly what I
22 just read about Section 12.

23 Do you see that?

24 A I do.

25 Q What specific steps did you take to

1 prepare to testify as a representative with respect
2 to topic 13?

3 A I reviewed the Special Order, I
4 reviewed one of the training materials that the
5 academy provided relative to CDT deployment and the
6 CDT operations which referenced chemical agents and
7 the necessity to provide warrants.

8 Q I, off the top of my head, can't
9 visualize that document, so unless -- we can go off
10 the record.

11 (Off the record.)

12 Q (BY MR. PRAISS) Mr. Larson, you just
13 described an exhibit and it sounds like, with
14 respect to the training exhibit, we were going to
15 try and locate that and later on this afternoon
16 I'll ask you a few questions on it.

17 Other than that one which you
18 described as a two-page document dealing with
19 training issues, did you review any other documents
20 that relate to topic 13?

21 A I don't believe so.

22 Q Okay. Other than that document,
23 which we'll look at in more detail later, are you
24 aware of any other training materials that were
25 provided to police officers concerning under what

1 **circumstances they can use handheld chemical agents**
2 **regardless of size of container?**

3 A No, other than what we discussed
4 previously today, the training document supplied by
5 the law department in August of 2017. That
6 training document I reviewed. I mean, it was a
7 classroom document.

8 Q No, I'm not looking at things you
9 reviewed. I'm looking at -- when I'm asking about
10 training, it's training to the police officers in
11 general.

12 A Right.

13 Q And we -- the document we looked at
14 before, which was Exhibit Number 6, that was, if I
15 recall your testimony you provided, just the senior
16 staff?

17 A Yes.

18 Q And it wasn't disseminated, as far as
19 you know, to all police officers?

20 A As far as I know.

21 Q Okay. Now you have just testified
22 there's about a two-page document that you do
23 believe you reviewed and was provided to all
24 officers; correct?

25 A No. It's an internal document

1 discussing the outline of the training program for
2 the materials that then Sergeant Jemerson, now
3 Lieutenant Jemerson, would have conducted during
4 CDT training.

5 Q Okay. Other than that outline, are
6 you aware of any actual written materials that Mr.
7 Jemerson or somebody else uses in training police
8 officers concerning under what circumstance they
9 can use handheld chemical agents?

10 A No.

11 Q Do you know if any such training
12 materials exist in writing?

13 A To the best of my knowledge, those
14 would all be incorporated in the document that we
15 turned over relative to the other deposition
16 request, so but no, I did not review them.

17 Q When you say "the other document,"
18 you're referring to the two-page document?

19 A I'm referring to that as incorporated
20 into a large lesson plan of series of materials
21 that speak specifically to this issue, I believe.

22 MR. PRAISS: Go off the record real
23 quick.

24 (Off the record.)

25 Q (BY MR. PRAISS) Other than the

1 two-page document that we'll hopefully get in the
2 next couple hours and the POST document that you
3 just referenced, are you aware of any other
4 training materials that have been provided to
5 police officers concerning under what circumstances
6 they can use handheld chemical agents?

7 A No, I am not.

8 Q Thank you.

9 Could you look real quick at the next
10 topic? I think we are on 14.

11 A Okay.

12 Q And this one is similar to topic 12
13 but focuses about the City's policies and practices
14 concerning under what circumstance police officers
15 can deploy chemical agents at protesters; correct?

16 A Mm-hmm.

17 Q Is that a yes?

18 A Yes. Sorry.

19 Q You have given us quite a bit of
20 testimony with respect to Section XIII of Special
21 Order 1-01.

22 A Yes.

23 Q Is that the only policy that the City
24 has concerning when police officers can deploy
25 chemical agents at protesters?

1 A Yes.

2 Q That was in place in September 2017
3 and still in place today; correct?

4 A It is.

5 Q It's never been amended?

6 A No.

7 Q Okay. Is there anything about --
8 strike that.

9 Finally topic 15 goes with topic 14
10 but simply asks for the training that's provided to
11 police officers with respect to under what
12 circumstance they can deploy chemical agents at
13 protesters?

14 A Right.

15 Q Okay. Other than the two exhibits
16 that you just referenced in response to my
17 questions for topic 13, are you aware -- strike
18 that. I apologize.

19 The two documents that you just
20 recently testified with respect to my questions
21 relating to topic 13, is it your understanding that
22 those documents are also responsive to topic 15?

23 A Yes.

24 Q Okay. Other than those two
25 documents, are you aware of any other documents

1 that have ever been provided to police officers
2 concerning under what circumstance they can deploy
3 chemical agents at protesters?

4 A I am not.

5 Q Okay. Again, I don't have the
6 benefit of those two documents in front of me but
7 separate from -- we know that those are the only
8 documents that you're aware of, that have been used
9 in training police officers about the use of
10 chemical agents, whether in a protest action or in
11 a different situation.

12 How often is that training provided
13 to police officers?

14 A Relating to the documents that I'm
15 referring to, the CDT outline, it is provided
16 during CDT classes at the Police Academy. So every
17 officer who is a graduate of the Police Academy,
18 moving forward since 2014, and that's date of the
19 training program, has been trained in CDT tactics,
20 deployment, and when chemical munitions can and
21 should be used or should not be used in civil
22 disturbance cases.

23 Q Okay. And that, if I understand you
24 correct, that's taken place for officers since 2014
25 as part of their training in the academy?

1 A Correct.

2 Q Okay. What about officers prior to
3 2014 where we don't have the benefit of this
4 outline?

5 A Right. Officers prior to that time,
6 I mean, the -- we created the Civil Disobedience
7 Teams and civil disobedience training was conducted
8 during the creation of those individual teams.
9 Since we've been doing ongoing training of getting
10 more people trained within the City of St. Louis
11 Police Department to be CDT qualified, we've been
12 doing that. So there were trainings that took
13 place to get members onto the CDT team and then
14 there's ongoing trainings at the academy. For new
15 members. And there's refresher training as well
16 that is handled by the SWAT Team on units,
17 mobility, lot formations and deployments and how
18 and when they should be deployed.

19 Q Thank you. Your answer raises a few
20 follow-up questions.

21 A I'm sure they do.

22 Q Yes, but I want to break it in
23 pieces. First of all, two documents that you've
24 referenced in responding to the topics dealing with
25 training, one of them we know is dated 2014; right?

1 A Correct.

2 Q The second document, what's the name
3 I should use for it?

4 A I believe it would be the POST
5 accreditation documents.

6 Q Okay. What's the date of that one,
7 if you know?

8 A I don't know.

9 Q Is it after 2014 or before?

10 A I don't know.

11 Q Prior to 2014, sitting here today as
12 the corporate representative, do you know what
13 documents, if any, were used in training police
14 officers about the use -- the deployment of
15 chemical agents?

16 A Oh, I don't -- I don't know.

17 Q Do you know if they had any
18 documents?

19 A I assume they had documents but I
20 don't know.

21 Q Okay.

22 A I would assume any training that
23 related to CDT that would have been handled through
24 the academy, the academy would have some
25 documentation of that type of training.

1 Q Did you take any steps to learn that?
2 And I'm not trying to be mean here --

3 A No.

4 Q -- but I'm doing my job.

5 A Right.

6 Q I need to know, in preparing to
7 testify about topics 12 and 15, did you do any --
8 what efforts did you take to determine what
9 specific training materials were being used prior
10 to 2014 with respect to the deployment of chemical
11 agents?

12 MR. DIERKER: If I could interject, I
13 assume you're within the relevant time period
14 starting September 15, 2012. Is that --

15 MR. PRAISS: Yes, all my questions,
16 but there was a gap from 2012 and 2014 that I'm
17 trying to determine.

18 MR. DIERKER: That's fine. I just
19 want to be clear you weren't going back to the
20 foundation.

21 Q (BY MR. PRAISS) So my question is,
22 what steps did you take to determine what materials
23 were used in training police officers about the
24 deployment of chemical agents for the relevant time
25 period beginning in September of 2012 until 2014?

1 A None.

2 Q And sitting here today you have no
3 knowledge one way or the other whether any training
4 materials did or didn't exist, you're just making
5 an assumption?

6 A Right. Correct.

7 Q And focusing on the time period, the
8 entire time period, do you know who were the
9 individuals who were responsible for training
10 police officers with respect to the deployment of
11 chemical agents?

12 A There is ongoing training through the
13 Police Academy on the -- how to use a chemical
14 agent, so how an officer uses their handheld mace.
15 That is an ongoing training process. The records
16 of that would be within the St. Louis Metropolitan
17 Police Department Academy.

18 The SWAT Team would be responsible
19 for their training related to the use of chemical
20 munitions, launchers, things of that nature. They
21 go through training programs related to that
22 specific. The SWAT commander, CDT commander,
23 Lieutenant Jemerson is responsible, or has been
24 responsible for training the CDT teams and on
25 providing the information on when to use and when

1 not to use. Related to civil disturbances. And
2 among others. I mean, there were other individuals
3 in that role other than Lieutenant Jemerson at the
4 time. He wasn't the SWAT commander during
5 Stockley.

6 Q If you know, the topics 15 topic 13,
7 they're focusing not about how to use chemical
8 agents but when it's appropriate to use it and when
9 it's not appropriate.

10 Do you understand that?

11 A I do, and that would be part of the
12 on -- the training on deployment. It's how we do
13 it. How and when you would use chemical agents.

14 Q And the sum and substance is that, if
15 I want to understand -- strike that.

16 If I want to look at what training
17 materials exist that, to your knowledge, from 2012
18 until the present, with respect to when police
19 officers can employ chemical agents, I just need to
20 look at those two documents, the 2014 document you
21 described as well as the POST accreditation and, to
22 your knowledge, there are no other documents that
23 have anything in writing that says when it's
24 appropriate to use chemical agents?

25 A At this time, that's correct.

1 Q Okay. I'll take a look at those in
2 great detail after the deposition.

3 Do you know how long the training
4 takes with respect to the circumstance when
5 chemical agents should be used?

6 A I do not. I know that it is part of
7 I believe a 16-hour course on CDT deployment. As
8 to how many hours or minutes, I don't know.

9 Q And you mentioned something about a
10 refresher, I think, in one of your answers?

11 A Yes.

12 Q Is that refresher done through the
13 PAS System or is that in person?

14 A It's generally a method in which the
15 SWAT Team creates a training day, the members of
16 the CDT have to respond to the training day, and
17 they work on the mechanical tactics and they cover
18 use of force during that.

19 Q During that use of force, do you have
20 personal -- can you testify as a corporate
21 representative under oath that there is actually
22 information about when it's appropriate to use
23 chemical agents rather than how to use chemical
24 agents?

25 A I believe the bulk of the training

1 relates to how to use chemical agents and I can't
2 say on when. I believe it is covered.

3 Q We're not going to spend very much
4 time on it but I'd like to at least cover with you
5 briefly topics 16 and 17.

6 A Okay.

7 Q And again, these deal with, for lack
8 of a better term, "kettle"?

9 A Mm-hmm.

10 Q And when I use the term "kettle," you
11 understand that's referring to what transpired on
12 September 17, 2017, around 11:30 at night, downtown
13 St. Louis?

14 A Yes.

15 Q And you've indicated that the City
16 itself doesn't use that term at all; correct?

17 A That is correct.

18 Q And nevertheless, if it's okay with
19 you, I'll use it just as an abbreviation; is that
20 okay?

21 A Correct.

22 Q To your knowledge, at any time, did
23 the City have any policies or practices concerning
24 the use of a kettle, referring to police officers
25 coming in from four different directions to entrap

1 a group of people that they want to arrest?

2 A No. We do not have a policy
3 outlining use of that tactic.

4 Q To your knowledge, has the City ever
5 used that tactic prior to September 17, 2017?

6 A To the best of my knowledge, no.

7 Q Did simply the incident commander or
8 other individuals on the ground that evening come
9 up with that approach on their own, out of thin
10 air?

11 A I believe so.

12 Q Gotcha. Since September 17, 2017,
13 has the City considered adopting any guidelines,
14 policies or practices with respect to under what
15 circumstance, if any, it is appropriate to use an
16 approach such as a kettle in dealing with
17 protesters?

18 A We have not. We're waiting on
19 determination of several things to revise or revamp
20 certain aspects of our Special Orders to determine
21 we're not looking, as this kettle or mass arrest
22 scenario is -- has come -- become a topic of
23 concern for the agency, we're in the process of
24 determining what our next step is, policy wise, to
25 avoid or ensconce and procedure what and how these

1 methods should or could be utilize.

2 Q In a nutshell, am I hearing you
3 correctly that the City basically is not doing
4 anything to modify or change any of its policies or
5 practices that relate to police interaction with
6 protesters until this case is fully resolved?

7 A No, I wouldn't make it as declaratory
8 as you have made it. I mean, I think we are
9 reviewing all types of information and we're
10 constantly trying to figure out how we can do
11 things better, how can we gain compliance, what are
12 the best practices in this situation. I don't
13 think we've determined what the best course of
14 action is yet.

15 Q But specifically, has the City, to
16 your knowledge, since the court issued its
17 preliminary injunction, done -- made any changes to
18 whatever to any policies or practices that are
19 relevant to what transpired in connection with the
20 Stockley protest?

21 A No, other than -- no. No. I don't
22 think so.

23 Q And is the reason the City hasn't
24 done that is, is it because the City is waiting for
25 final resolution of the litigation, or is it

1 because it determined that there was no need to do
2 it? That's what I'm trying to understand.

3 A Right, and I think it's somewhere in
4 between. We are trying to determine, A, what we
5 need to do and how we need to do it and what is it
6 that we should do.

7 Q It's been quite a while since the
8 court issued its order and so with respect to the
9 statement that you made about that you're still
10 evaluating, trying to determine, what's taking so
11 long?

12 A It's a process, like anything else,
13 and processes take time.

14 Q Let me ask you a question here on
15 that.

16 (Parties' 30(b)(6) Exhibit 10
17 marked for identification by the court reporter.)

18 Q (BY MR. PRAISS) I'm going to hand
19 you what's been marked for identification purposes
20 as Exhibit 10.

21 A Yes.

22 Q Are you familiar with Exhibit 10?

23 A I am. Well, excuse me, I am not.

24 It's a -- I am familiar in the fact that it is an
25 email but I am not familiar with the content of the

1 email. I don't believe I've seen this email
2 previously.

3 Q Just for the record, so at least the
4 record is clear, this is an email dated October 11,
5 2017, from Carl Filler, F-i-l-l-e-r, to the mayor
6 of the City of St. Louis and Nicole Hudson.

7 Do you see that?

8 A I do.

9 Q And it's referring to "Critical
10 Incident Review Draft Scope of Works"?

11 A Yes.

12 Q If you could just take a minute and
13 just look at substance of the email from Carl
14 Filler to the mayor, as well as the material
15 attached?

16 A Mm-hmm.

17 Q Let me know when you have had a
18 chance to just glance at it.

19 A Okay. Okay.

20 Q Have you had a chance to look at
21 Exhibit 10?

22 A I have.

23 Q For the record, I did mention before
24 but you see Carl Filler is the senior policy
25 advisor in the mayor's office?

1 A Yes.

2 Q Okay. Are you at all familiar with
3 the information that's discussed in the attachment
4 to this email?

5 A No, I am not. I don't believe I saw
6 this.

7 Q Back to the line of questions we had
8 just before I showed you this exhibit. My question
9 to you was if you're aware of any specific changes
10 made by the City of St. Louis with respect to any
11 policies or practices that relate to the Stockley
12 protest since the court issued its preliminary
13 injunction, and you told me that because of the
14 pending litigation and because it's an ongoing
15 evaluation, that has not happened and no changes
16 have been made; is that a fair summary?

17 A I believe that is a fair summary.

18 Q Okay. With respect to the statement
19 by you that it's an ongoing process, I showed you
20 this exhibit because I thought you might be
21 familiar with it showing efforts done by the City.

22 A Correct.

23 Q When you say -- when you testify
24 about ongoing efforts, what are you referring to?
25 What ongoing efforts has the City done specifically

1 to evaluate whether it should amend, modify any of
2 the policies or practices that were at issue in
3 connection with the Stockley protests?

4 A And as I indicated, I guess what I
5 should be clear on, is I understand that I am the
6 City's representative. I don't -- I did not have
7 access to the mayor's email in preparation for
8 that. Most of my statements I think could be
9 construed more directly with the St. Louis Police
10 Department per se. So if there are events going on
11 that -- such as this document on the opinions and
12 scope of work for critical incident review, I may
13 not be aware of them or was not aware.

14 But as I said, it's an ongoing
15 process and there are a lot of people who are
16 interested in making sure that we have a resolution
17 and we get this right.

18 Q Just for the record, you do
19 understand you're testifying here today not just on
20 behalf of the St. Louis Metropolitan Police
21 Department but on behalf of the City of which the
22 St. Louis Metropolitan Police Department is
23 subsumed within it; correct?

24 A Yes, I've been instructed to that.

25 Q Okay. I just want to make sure that

1 was clear to you.

2 A Yes.

3 Q My question to you, Mr. Larson, is
4 again, you make a generic statement that, and I
5 believe you, that the City has an interest in
6 having an ongoing evaluation with you of the
7 policies and practices and making necessary
8 changes. I want more specificity.

9 Can you identify for me sitting here
10 today any specific steps that have been undertaken
11 by the City in evaluating whether it's appropriate
12 to amend, modify any policies or practices that are
13 at issue with respect to the Stockley protest since
14 September of 2017?

15 A No.

16 Q Okay. Back to topics 16 and 17. We
17 covered topic 16. On topic 17, I'll let you catch
18 up. Topic 17 deals with the "Training provided to
19 police officers regarding the City's policies and
20 practices concerning the use of a kettle."

21 And is it fair to say that there are
22 no such training were provided at any time because
23 there are no policies or practices concerning the
24 use of a kettle?

25 A Yes.

1 Q Okay. Did you review any video of
2 the Stockley protest in preparation for today's
3 deposition?

4 A I did not watch any video.

5 Q At any time did you watch any video
6 of the Stockley protests?

7 A Only if video was being shown during
8 the protest and it would be open source video. But
9 no, I did not.

10 Q But not after the protest for some
11 reason --

12 A No, certain -- no, not --

13 Q -- meet with people and review it?

14 A No. Well, wait a minute. We had
15 several POST Stockley training sessions with the
16 senior command on how things were done. They were
17 kind of an after action review. I cannot recall if
18 there was video as part of that or not. The
19 sessions were composed at the direction of the
20 chief's office and I believe Lieutenant Jemerson
21 hosted those and distributed that information.

22 Q Do you recall approximately how many
23 of those sessions there were?

24 A I believe there were at least two,
25 possibly three.

1 Q And Jemerson handled all of those?

2 A Yes.

3 Q Do you recall, this was again -- just
4 a senior staff?

5 A Senior staff and possibly involved
6 commanders, specialized unit commanders.

7 Q Okay. Were there any specific -- was
8 it a PowerPoint or any other materials used in
9 connection with those meetings?

10 A I don't recall. I believe there was
11 a PowerPoint.

12 Q I'm not sure I've ever seen that
13 PowerPoint.

14 MR. DIERKER: I know I have not.

15 A Well, and I could be completely
16 wrong. We've done so many different after action
17 reports related to incidents, I mean, I know we did
18 one related to the workhouse. I can't recall --
19 I'll be honest with you, I'm very confused this
20 afternoon.

21 Q (BY MR. PRAISS) I definitely don't
22 mean to confuse you and again, if you need a break
23 at any time, just let me know, but again, you know,
24 we have in front of us, for example, what's been
25 marked before as Exhibit Number 6 --

1 A Correct.

2 Q -- which is a presentation
3 specifically before the Stockley protest that was
4 given to, and I'm using the term generically,
5 senior staff, including yourself --

6 A Correct.

7 Q -- about what the City's
8 understanding was in terms of the applicable
9 statutory and legal provisions dealing with protest
10 law.

11 A Right.

12 Q And what you're just testified is
13 that subsequent to the Stockley protest, there have
14 been several meetings where Mr. Jemerson presented
15 information about, I would call them lessons
16 lenders?

17 A Right. And I'll be honest, I believe
18 that I am mixing incidents. We had a change of
19 command after Stockley and I can't recall what we
20 did specifically. I know that we had similar
21 review -- we had a review session after the
22 workhouse. We had training and sessions prior to
23 Stockley where we covered material like this. So
24 I'd have to say that I was confused and I answered
25 in error.

1 Q And I appreciate your testimony.
2 Sitting here today, can you testify as the
3 corporate representative with certainty that there
4 have been no meetings and presentations at any time
5 addressing or evaluating after action review, After
6 Action Critique, whatever the term is, in terms of
7 what I will generally call lessons learned from the
8 Stockley protest made to senior staff or anybody
9 else?

10 MR. DIERKER: I assume you're
11 excluding litigation.

12 MR. PRAISS: Yes.

13 A Again, I cannot.

14 Q (BY MR. PRAISS) You don't know one
15 way or the other?

16 A No. I can't recall one way or the
17 other.

18 Q Okay. Are you familiar with the term
19 "After Action Critique"?

20 A I am.

21 Q Is After Action Critique the same as
22 an after action review?

23 A It's interchangeable.

24 (Pleadings' 30(b)(6) Exhibit 11
25 marked for identification by the court reporter.)

1 Q (BY MR. PRAISS) Mr. Larson, I hand
2 you what's been marked for identification purposes
3 as Exhibit 11.

4 Do you see that?

5 A I do.

6 Q And is that your name on the second
7 page of this?

8 A S.

9 Q So you're definitely familiar with
10 this exhibit?

11 A I am.

12 Q And this is titled Operational
13 Planning Major Event - After Action Critique;
14 correct?

15 A Correct.

16 Q And you prepared this sometime after
17 the Stockley protest; correct?

18 A Correct.

19 Q Okay. And it's -- in your own words,
20 what's an After Action Critique?

21 A The After Action Critique is a simple
22 review of the incident that occurred. In this
23 particular format, it asks a series of questions
24 about the role that an individual played and what
25 things that worked well and things that did not

1 work well.

2 Q Okay. Is there any -- strike that.

3 If you read, and I'll put it in the
4 record, that in the block at the top it says, "In
5 an effort to improve the quality and effectiveness
6 of the performance of the St. Louis Metropolitan
7 Police Department and the handling of Special/Major
8 Events as well as maintaining," all capitalized,
9 "C-A-L-E-A compliance, all detail commanders and
10 supervisors are required to complete an After
11 Action Critique after major events."

12 Did I read that correctly?

13 A You did.

14 Q Is this the only form of After Action
15 Critique that's provided to all detail commanders
16 and supervisors? Or is there a different form for
17 different supervisors based on their role?

18 A This would be the main form that
19 would be submitted or requested to be returned.

20 Q When you say "the main form," is
21 there a different form?

22 A No. I mean, not that I'm aware of.
23 There's not another form; although, commanders or
24 individuals could write memorandums as far as a
25 after action review. I could request from a

1 subordinate an after action review for a particular
2 incident, they would put that on a memorandum, not
3 specifically this form.

4 Q Okay. To your knowledge, were any
5 such memorandum prepared by any detail commanders
6 or supervisors in connection with the Stockley
7 protest?

8 A To the best of my knowledge, no.

9 Q To the best of your knowledge, is the
10 After Action Critique that you submitted, which is
11 Exhibit 11, the only After Action Critique that was
12 submitted by detail commanders and supervisors
13 after the Stockley protest?

14 A As far as I know, it is.

15 Q Okay. When it says here that "all
16 detail commanders and supervisors are," and I
17 emphasize the word "required to complete an After
18 Action Critique," did the other detail commanders
19 and supervisors fail to meet that requirement in
20 this case? Kind of an obvious question.

21 A Apparently, they did.

22 Q Okay. Have they been reprimanded in
23 any way, to your knowledge, for not complying with
24 the Major Event - After Action Critique
25 requirements by the City?

1 A To my knowledge, no.

2 Q Okay. Is it of a concern, from the
3 City's perspective, that pretty significant
4 incident occurred in the City of St. Louis, there
5 is a document that contemplates that all detail
6 commanders and supervisors should fill out this
7 form in order to, quote, "improve the quality and
8 effectiveness of the performance of the police
9 department," that you're the only one who took the
10 time to fill one out? Is that a serious concern?

11 A It's a concern that more were not
12 submitted.

13 Q The form that you filled addresses
14 things such as the quality of the food; correct?

15 A Correct.

16 Q Talks about whether the roll call
17 location was adequate; correct?

18 A Correct.

19 Q About whether the roll call
20 information was adequate; correct?

21 A Correct.

22 Q Whether the number of personnel
23 assigned was adequate; correct?

24 A Correct.

25 Q By the way, on the food, you

1 commented was the "Food provided ranged from
2 adequate to exceptional"; that was your feedback?

3 A Yes.

4 Q Okay. And then it talks about "What
5 things worked well?"

6 Do you see that?

7 A Yes.

8 Q And then there's a section of "What
9 can be done to make the detail better next year?"
10 Right?

11 A Yes.

12 Q And not a single commander or
13 supervisor filled out the information about what
14 can be done to make the detail better next time.
15 After the Stockley incident; correct?

16 A Correct, this is the only one that
17 I'm aware of.

18 Q So now I'm going back to my question,
19 does this in any way refresh your recollection of
20 whether, after the Stockley protest, there has been
21 any presentations where documents were provided to
22 police officers with what I'm going to generally
23 term as lessons learned and how to do things better
24 to ensure that the quality and effectiveness of the
25 performance of the St. Louis Metropolitan Police

1 Department is improved in the future?

2 A I can't recall any.

3 Q Am I correct that this particular
4 document, Exhibit 11, was created at Saint Louis
5 University?

6 A I don't believe so.

7 Q This was not created by a social work
8 professor?

9 A Oh, the actual, where the form was
10 created or how the form was created?

11 Q The form, yeah.

12 A Oh, I don't -- I don't know the
13 history of the form.

14 Q Okay. Yeah, I was referring to the
15 form of it.

16 A The only thing I can tell you, it is
17 Version 1 and it first became department policy in
18 October of 2007, but I have no knowledge of how the
19 mechanics of it took place.

20 Q But you understood, at the time you
21 filled it, that this form and the requirements
22 there applied to the events that just had
23 transpired in the Stockley protest?

24 A Yes.

25 Q Okay. Let's focus on topics 4

1 through 6, if you want to look at those.

2 Have you had a chance to review
3 topics 4, 5, and 6?

4 A I have.

5 Q Do you see the common denominator to
6 all of them deals with unlawful assembly?

7 A Yes.

8 Q And different areas of inquiry about
9 unlawful assembly; is that a fair statement?

10 A Yes.

11 Q If you could go back and spend some
12 time looking at Exhibit 6 (sic) that we dealt with
13 before?

14 MR. PRAISS: And I apologize, Judge,
15 that's the one we don't have the even pages.

16 MR. DIERKER: That's fine.

17 Q (BY MR. PRAISS) If you go to page 5
18 of this document, presentation?

19 A Mm-hmm.

20 Q Do you see it's titled Section
21 574.040?

22 A Yes.

23 Q And your understanding, that's a
24 provision under Missouri law; correct?

25 A Correct.

1 Q Okay.

2 (Plaintiffs' 30(b)(6) Exhibit 12
3 marked for identification by the court reporter.)

4 Q (BY MR. PRAISS) Just so you know, in
5 Exhibit 12, I did a simple Google search and I
6 printed out copies of Section 574.040 of the
7 Missouri Revised Statutes as well as 574.050 and I
8 believe there should also be one more, 574.060. So
9 you have, to the extent you want to refer to the
10 actual language, because sometimes in the exhibit
11 that we're looking at, Exhibit 6, I believe it has
12 elements but might not have the full language, so
13 feel free to refer to both exhibits.

14 A Thank you.

15 Q Back to page 5 of the exhibit dealing
16 with Section 574.040, you see it identifies the
17 different elements necessary for a person to
18 violate that statutory provision?

19 A Yes.

20 Q And it says, "A person commits the
21 offense of unlawful assembly if," and 1, "he or she
22 must knowingly assemble with six or more other
23 persons"; correct?

24 A Yes.

25 Q Second requirement, that individual

1 must "agree with such persons to violate any
2 criminal laws."

3 Do you see that?

4 A Yes.

5 Q The third one, the person must reach
6 that agreement to violate the criminal laws "with
7 force or violence"; correct?

8 A Yes.

9 Q If you now flip to page 6 of the
10 PowerPoint presentation?

11 A Yes.

12 Q There is a description of, that lays
13 out the City's understanding of the provision
14 574.040 and when someone potential violates it;
15 correct?

16 A Correct.

17 Q And it indicates, and please correct
18 me if I am misstating it, that, "Every person who
19 is present and cognizant of the unlawful acts being
20 committed bit other members of the assembly can be
21 found guilty of being unlawfully assembled"; is
22 that correct?

23 A That is correct.

24 Q Is it your understanding that that
25 statement reflects the policy of the City?

1 A Yes, that's the interpretation of the
2 City on this ordinance.

3 Q Sitting here today as a corporate
4 representative, do you believe that's an accurate
5 statement?

6 A I believe it is.

7 Q You're familiar with the word
8 "cognizant"; correct?

9 A Its common definition, yes.

10 Q Okay. "Cognizant" means to be aware
11 of something; correct?

12 A Yes.

13 Q Okay. Do you agree that a person can
14 be cognizant of unlawful acts being performed by
15 other individuals without agreeing with other
16 individuals to engage in the same unlawful acts?

17 A Potentially.

18 Q To be cognizant of something is very
19 different than to agree to do something; correct?

20 A Correct.

21 Q Okay. Am I correct that the
22 statement on page 6 of the presentation, that does
23 not include any requirements that in order to be
24 found guilty of the crime of unlawful assembly, a
25 person must agree with other individuals to

1 actually violate the criminal laws with force or
2 violence?

3 A Page 6 does not state that.

4 Q So to the extent page 6 does not
5 include those requirements of an agreement rather
6 than being cognizant and not only an agreement, but
7 an agreement to violate the criminal laws with
8 force or violence, it is incorrect?

9 MR. DIERKER: I'll object to the form
10 of the question, calling for a legal conclusion.

11 A Yeah.

12 Q (BY MR. PRAISS) I am not asking for
13 a legal opinion. I am asking from your
14 understanding as a corporate representative with
15 respect to topics 4, 5, and 6 dealing with unlawful
16 assembly, when it can be declared, on page 6 of the
17 PowerPoint presentation that was provided to senior
18 staff --

19 A Mm-hmm.

20 Q -- only one or two weeks before the
21 Stockley -- weeks before the Stockley protest, it
22 suggests, am I correct, that an unlawful assembly
23 can be declared even in circumstances where people
24 are simply cognizant of certain unlawful acts
25 happening but not agreeing to do so?

1 A It doesn't say --

2 MR. DIERKER: Same objection. Go
3 ahead.

4 A I was going to say it doesn't say
5 that an unlawful assembly can be declared because
6 people in the crowd are cognizant of the acts. I
7 mean, the point of this slide appears to be the
8 fact that those people who are in the crowd who are
9 aware that the crowd is creating unlawful acts can
10 be found guilty of unlawful assembly.

11 Q **(BY MR. PRAISS) So again, that's**
12 **what I'm trying to understand. Is it the City's**
13 **position that somebody who is simply found, for**
14 **example, inside the kettle, who is cognizant of the**
15 **protest around him but hasn't reached any agreement**
16 **with anybody to do anything unlawful and to break**
17 **the criminal -- the laws, by force of violence,**
18 **that that individual, just by standing and being**
19 **cognizant that those other people around him, can**
20 **be charged with unlawful assembly?**

21 A It's very fact dependent in the whole
22 incident -- I mean, you've laid out a large
23 scenario of a hypothetical that I'm having a little
24 trouble keeping up with but, essentially, if there
25 are people within that group that are creating

1 unlawful acts which have risen to the level to
2 declare an unlawful assembly, the persons within
3 that group, whether they've committed an -- a
4 person in that group could be found guilty of
5 unlawful -- being unlawfully assembled.

6 Q And I apologize for my hypothetical
7 and I appreciate your answer but I'm going to try
8 and distill it, if I may, Mr. Larson.

9 Is it the City's understanding that a
10 person can be charged with unlawful assembly under
11 circumstance where that person does not reach an
12 agreement with other individuals to violate the
13 criminal laws with force or violence? That's my
14 question.

15 A Well, they have to reach an agreement
16 with -- because that's an element of the crime.

17 Q In the slide that we're looking at on
18 page 6, is there any requirement there that
19 specifies -- strike that.

20 On page 6, sir, the word "agreement"
21 does not appear?

22 A It does not.

23 Q And it specifically says that every
24 person who is simply present and cognizant of the
25 fact that unlawful acts are being committed by

1 others can be found guilty of unlawful assembly;
2 correct?

3 A That is the statement.

4 Q And that's the policy of the City of
5 St. Louis?

6 A It was the information that was
7 provided.

8 Q It was provided, not just to anybody
9 but the top people who were then expected to share
10 that information with the people below them;
11 correct?

12 A Yes.

13 Q Okay. If you look at page 8, am I
14 correct that deals with City Ordinance 15.52.010?

15 A It does.

16 Q And it lays out the key elements
17 necessary for a person to violate this ordinance?

18 A Yes.

19 Q And first, you have to have at least
20 two persons; correct?

21 A Yes.

22 Q They have to assemble together;
23 correct?

24 A Yes.

25 Q They have to act in concert?

1 A Yes.

2 Q And they have to do so to do any
3 unlawful act with force or violence; correct?

4 A Yes.

5 Q Am I correct that both Section
6 574.040 and Ordinance 15.52.010 include, among
7 other things, the requirement to do an unlawful act
8 with force or violence?

9 A Yes.

10 Q Okay. When it uses the phrase to
11 "act in concert" in Ordinance 15.52.010, what is
12 your understanding that means?

13 MR. DIERKER: I'll object to the form
14 of the question, asking for a conclusion of law.

15 Q (BY MR. PRAISS) I'm not -- let me
16 rephrase the question.

17 What is the City's understanding with
18 respect to the enforcement of Section Ordinance
19 15.52.010, what "act in concert" requires?

20 MR. DIERKER: Same objection.

21 A The common definition of to "act in
22 concert" is to act together.

23 Q (BY MR. PRAISS) I looked it up, the
24 Merriam-Webster dictionary provides the following
25 definition for the word "concert: Agreement in

1 design or plan; union formed by mutual
2 communication of opinion and views."

3 As the City's representative, do you
4 agree with that definition?

5 A I would agree.

6 Q Okay. The last part of Ordinance
7 15.52.010 has language about, it starts, "and every
8 person present at such meeting or assembly who
9 shall not endeavor to prevent the commission or
10 perpetration of such unlawful act shall be guilty
11 of a misdemeanor."

12 Do you see that?

13 A I do.

14 Q When it uses the phrase there "every
15 person at such meeting or assembly," the language
16 "meeting or assembly," is it the City's
17 understanding that that refers to the meeting or
18 assembly that's discussed above in the first
19 section of the provision?

20 MR. DIERKER: Once again I'll object
21 to the form of the question as calling for legal
22 conclusions. I don't feel that legal opinions are
23 within the scope of the corporate representative
24 deposition but --

25 Q (BY MR. PRAISS) I'll rephrase my

1 question because I apologize if I -- and I should
2 be doing it, I am not, again, Mr. Larson, asking
3 for a legal opinion.

4 What I'm trying to understand is the
5 City, when it sends out police officers to enforce
6 Ordinance 15.52.010, I'm trying to learn, no
7 different than any other citizen, of under what
8 circumstance, if any, may I be, based on the City's
9 understanding, subject to a violation of this
10 ordinance?

11 So the City must have an
12 understanding how it enforces it and how it trains
13 police officers about it and that's all I'm looking
14 for. Not a legal conclusion but an understanding
15 of the City with respect to the enforcement of this
16 provision. Does that make sense? And I think I'm
17 entitled to that and I'm happy to take that to the
18 judge any day, Judge.

19 MR. DIERKER: Well, we'll do that
20 when and if needed but I'll adhere to my objection.

21 Q (BY MR. PRAISS) But I want it on the
22 record to be clear what I'm looking for. I am not
23 looking for, even though I now found out you're an
24 attorney, I don't want your legal opinion. I want
25 the City's understanding about this. Fair enough?

1 When it says in the last clause that
2 "every person present at such meeting or assembly,"
3 is it referring to the two people who assemble
4 together to act in concert? Is that what it's
5 referring to? Is that the City's understanding?

6 A Yes.

7 Q Okay. So to the extent two people
8 get together, as referenced in the first section of
9 Ordinance 15.52.010, and one of them --

10 A Well, I would have to -- may I
11 interject? I'm sorry.

12 Q No problem.

13 A The -- when -- go ahead with your
14 question.

15 Q My question is going to be much
16 easier. I came up with a different approach.
17 Let's say two people assemble together at a street
18 corner.

19 A Yes.

20 Q And they decide, in concert, as
21 required here, to commit an unlawful act with force
22 of violence against the property of the City or
23 somebody. Okay?

24 A All right.

25 Q Let's say I am standing next to them

1 but I don't even know who the heck they are, but
2 let's say I'm overhearing this thing. Is it the
3 City's understanding that I can be charged with
4 unlawful assembly because I failed to endeavor to
5 prevent the commission or perpetration of such
6 unlawful act?

7 MR. DIERKER: Same objection.

8 A And I would have to say yes, because,
9 as we were discussing the first scenario, you
10 indicated the two people together, yes, they are
11 the people who are violating the ordinance. The
12 rest of the ordinance indicates any -- therefore,
13 "every person present at such meeting or assembly
14 who shall not endeavor to prevent the commission or
15 perpetration of such unlawful act shall be guilty
16 of a misdemeanor."

17 So by failing to stop them, if you've
18 overheard them, you're involved, failing to notify
19 officers, yes, in theory, you would be subject to.

20 Q (BY MR. PRAISS) Now change my little
21 hypothetical now, say I don't overhear anything,
22 they're just standing there, they've reached an
23 agreement. I don't hear a thing, I don't have a
24 clue what they're thinking to do. I'm just
25 standing next to them.

1 Can I be charged with unlawful
2 assembly even though I have no knowledge of what
3 they're planning to do?

4 MR. DIERKER: Same objection.

5 Q (BY MR. PRAISS) Again, I'm looking
6 for the City's understanding of how it enforces
7 this provision.

8 A Yes.

9 Q So your testimony is, as the
10 corporate representative of the City of St. Louis,
11 that in the connection with let's say the kettle,
12 if, hypothetically, there was two people there who
13 reached some agreement to commit an unlawful act by
14 violence, even though you've already testified
15 there's no evidence to suggest anybody acted with
16 violence, everybody else that was entrapped inside
17 the kettle, the City's position could be charged
18 with unlawful assembly even though they didn't even
19 know who those two people were in my hypothetical
20 and they never talked to them and had no idea what
21 their intent was, but simply because they were in
22 the wrong place at the wrong time, they could be
23 charged with a misdemeanor of violating the law?

24 A They could be. We're talking about
25 some very fact-dependent circumstances, we're

1 talking about all kinds of events and prosperity,
2 and these things don't happen in a vacuum. There
3 is all kinds of warnings that would be given,
4 attempts to get crowd people to disperse, so,
5 therefore, being taken into custody at that point
6 could occur to someone who is not necessarily
7 engaged in the unlawful or riotous behavior,
8 violent behavior.

9 Q I'm really focusing on the kettle,
10 and I think you've acknowledged to me that in
11 undertaking the approach of the kettle coming in
12 from four corners, it was reasonable to anticipate
13 that some people would get trapped who were not in
14 fact protesters and acting in any way in connection
15 with other protesters; you recall that?

16 A Yes.

17 Q Knowing that, my question to you is,
18 it is still the City's position that, when you have
19 trapped a very significant, large group of people,
20 by the mere fact that, and not a complicated
21 hypothetical, only two people in the whole group
22 reached some agreement to do something with
23 violence, is my hypothetical, and everybody else is
24 clueless, they're just kinda like, how the heck did
25 I get here, that the police officers at that point,

1 that evening, could arrest everybody for unlawful
2 assembly because they are at the wrong place at the
3 wrong time; is that the City's position?

4 MR. DIERKER: Same objection.

5 A They -- yes. That's the City's
6 position.

7 Q (BY MR. PRAISS) And since those
8 people, under the City's position, are in violation
9 of the law, even though, again, my fact pattern,
10 they have no idea what's happening with the other
11 people, they're just bystanders, because the City
12 considers them to be engaged in unlawful assembly,
13 that means that under policy Section XIII of
14 Special Order 1-01, the police can deploy chemical
15 agents at them without any warnings?

16 A Potentially.

17 Q The warnings -- the warning
18 requirement doesn't apply --

19 A Doesn't apply --

20 Q -- because they're engaged in
21 unlawful activity, they're no longer peaceful?

22 A But it would require violence or
23 threat of violence and things of that nature, and
24 again, you're asking very finite questions about
25 very fluid situations.

1 Q I'm trying to -- I'm visualizing the
2 circumstance of what I believe transpired during
3 the kettle and you have now explained to me the
4 City's position, which it is what it is, but that a
5 lot of people that night, all of them could have
6 been charged with unlawful assembly, and when I go
7 back to Special Order -- Section XIII, Special
8 Order 1-01, it specifies that, "Per the Settlement
9 Agreement, chemical agents will not be used to
10 disperse groups engaged in non-criminal activity
11 without satisfying the following conditions" --

12 A Correct.

13 Q -- one of them being a warning.

14 A Correct.

15 Q Is it the City's position that all of
16 those people were engaged in criminal activity
17 because they were unlawfully assembled, even those
18 there were no specific articulable facts to
19 establish that all of those people had knowledge
20 that somebody acted or was going to act in concert
21 to violate the laws?

22 MR. DIERKER: Object to the form of
23 the question, argumentative, calling for a
24 conclusion of law.

25 Q (BY MR. PRAISS) You can answer my

1 question.

2 A Yes, I mean, the unlawful activity
3 has occurred, in the situation where given,
4 announcements are made, opportunities were given to
5 egress. Failure to comply with that opportunity,
6 they were -- people were arrested.

7 Q Okay. A lot of those people were
8 arrested for unlawful assembly; correct?

9 A I believe so.

10 Q So that's why I'm focusing on that
11 provision. And again, that evening, those people
12 that were arrested for unlawful assembly and in the
13 process were subjected to chemical agents, it is
14 the City's position that the officers were entitled
15 to use chemical agents against them because they
16 were engaged in unlawful assembly; therefore, they
17 were acting in a criminal conduct, no warnings had
18 to be given. Correct?

19 A No warnings would have to be given,
20 but warnings were given.

21 Q Warnings that chemical agents would
22 be used. I'm focusing on that. Am I correct no
23 warnings were given to people that chemical agents
24 were going to be used against them, necessarily?

25 A I can't answer that.

1 Q Are you aware in prior -- during the
2 Stockley protests of a single time when an officer
3 told someone that, I'm about to deploy chemical
4 agents with handheld pepper spray or a fogger and
5 gave them a warning before doing so?

6 A I know warnings were given.

7 Q Warnings about the use of chemical
8 agents.

9 A But I cannot say that an individual
10 officer did or did not give a warning to an
11 individual they may have used chemical agents on.

12 Q But under Special Order -- Section
13 XIII of Special Order 1-01 they are not required to
14 give warnings because of the City's interpretation
15 of what constitutes an unlawful assembly; correct?

16 A Yes.

17 Q Okay. If you go to page 9 of the
18 presentation. That deals with the offense of riot
19 and that deals with Section 574.050, which is --

20 A Yes.

21 Q You have a copy of the full statutory
22 provision in Exhibit 12, if you want to refer to
23 it.

24 A Yes.

25 Q Do you see on page 9 it lays out the

1 key elements for the offense of rioting?

2 A Yes.

3 Q And you got -- in that situation a
4 person commits the offense of rioting if "he or she
5 knowingly assembles with six or more persons";
6 correct?

7 A Yes.

8 Q "Agrees with such persons to violate
9 any criminal laws"; correct?

10 A Yes.

11 Q "With force or violence"; correct?

12 A Yes.

13 Q And, "thereafter, while still so
14 assembled, does violate any criminal laws with
15 force or violence."

16 Those are all the elements?

17 A Yes.

18 Q Okay. Again, that statutory
19 provision, 574.050, clearly requires force or
20 violence; correct?

21 A Yes.

22 Q And do you know if anybody was
23 actually charged with violation of this statutory
24 provision in connection with the Stockley protests?

25 A I do not.

1 Q Okay. Go to page 10. This one deals
2 with Section 574.060.

3 Do you see that?

4 A Yes.

5 Q And again, feel free to look at
6 Exhibit 12, if you want to look at the entire
7 statutory provision, Mr. Larson.

8 A Okay.

9 Q On page 10 it lays out the key
10 elements for committing the crime of refusal to
11 disperse.

12 Do you see that?

13 A Yes.

14 Q The first element is that the person
15 has to be "present at the scene of an unlawful
16 assembly or riot"; correct?

17 A Yes.

18 Q And then there is three other
19 elements that follow, "person has to knowingly fail
20 or refuse to obey; a lawful command of a police
21 officer"; and "to depart the scene of such unlawful
22 assembly or riot"; correct?

23 A Correct.

24 Q Do you agree, sir -- strike that.
25 Am I correct that it's the City's

1 position that, in order to commit the crime of
2 refusal to disperse, there must be an underlying
3 unlawful assembly or riot to trigger the failure to
4 disperse?

5 MR. DIERKER: Object to the form of
6 the question, calls for a legal conclusion.

7 A Yes, that would be part of the --
8 it's an element of the crime, so it's required to
9 be there prior to charging an individual with
10 refusal to disperse.

11 Q (BY MR. PRAISS) And am I correct
12 that, we've established on several occasions, that
13 in order to have an unlawful assembly or riot --
14 strike that.

15 Focusing again on the kettle, I
16 apologize for belaboring this point but again,
17 you're not aware of any situation where somebody,
18 around 11:30 at night, 11:25 that evening, was
19 engaging in violent conduct that presented imminent
20 threat to police officers or property at that
21 point; correct?

22 A At that particular moment in time, I
23 don't know what was occurring. At that particular
24 moment in time in this grand scenario, I don't know
25 if someone was engaging in violence or not.

1 Q Are you aware of any facts that
2 suggest that there was somebody arrested for acts
3 of violence at that time?

4 A There were not people arrested at
5 that -- I'm confused because you're asking me
6 almost to testify to a specific incident.

7 Q Let me help you out. You're familiar
8 with, and I don't know his title, Mr. Sachs?

9 A Yes.

10 Q Who testified at the preliminary
11 injunction?

12 A I know Lieutenant Sachs. He was the
13 commander of SWAT at the time of the kettling.

14 Q And I'll represent to you I've read
15 his testimony very carefully. If he testified that
16 after about 8:30 that evening, where there was
17 property damage, there was no evidence any of
18 violent activity in the City in the later part of
19 that evening, do you have any facts to dispute
20 that?

21 MR. DIERKER: Well, I'm going to
22 object to that question because it seems to me that
23 that's totally outside the scope of the corporate
24 designee deposition. You're asking for knowledge
25 of the entire event, specifically specific conduct

1 of specific people. I will allow him to answer.

2 MR. PRAISS: For what it's worth,
3 you, of all people, should know speaking objections
4 are not exactly appropriate. And I think that was
5 a novel of an objection. You might want to
6 consider shortening it a bit.

7 MR. DIERKER: I'll note your
8 objection to my objection.

9 MR. PRAISS: Okay. And the reason
10 for my question is not trying to go outside the
11 scope and to lay a foundation for the question that
12 he was having difficulty answering, so this is a
13 predicate to my question and that's why I need it.

14 Q (BY MR. PRAISS) So my question back
15 to you is, I'm representing to you what Lieutenant
16 Sachs testified, that after 8:30, there was no
17 evidence of violent activity in the City and
18 definitely none around 11:30 when the kettle took
19 place.

20 My question to you is, I just need to
21 understand, are you aware of any of facts to
22 challenge that testimony by Lieutenant Sachs?

23 A I am not aware of any facts that
24 challenge Lieutenant Sachs's testimony.

25 Q Okay. And my question to you then

1 is, in order to declare -- in order for someone to
2 commit the crime of refusal to disperse, we
3 established that a predicate for that is either
4 being present at an unlawful assembly or a riot;
5 correct?

6 A Correct.

7 Q And in order to be, have to be at the
8 scene of an unlawful assembly or a riot, there has
9 to be acts of violence occurring; correct?

10 A Correct, by the statutory definition.

11 Q And yet --

12 A With force or violence.

13 Q And yet assuming Lieutenant Sachs'
14 testimony is accurate and there were no acts of
15 violence, force or violence occurring at 11:30 at
16 night, what is the basis for charging people with a
17 crime of refusal to disperse if there is no basis
18 for establishing an unlawful assembly or a riot, is
19 what I'm trying to understand.

20 MR. DIERKER: Object to the form of
21 the question, argumentative.

22 A I can't state -- I mean, based on the
23 hypothetical scenario, assuming that there is no
24 other individual who can say that force or violence
25 was occurring at that particular time, the

1 declaration of the unlawful assembly was up to the
2 incident commander who should have followed the
3 statutory guidelines to declare.

4 Q (BY MR. PRAISS) Okay. If you go to
5 page 11, please? It says, "The decision to declare
6 a crowd unlawful must be based on reasonable and
7 articulable facts."

8 What is the City's understanding what
9 it means when it says -- uses the phrase
10 "reasonable and articulable facts"?

11 A A common sense language definition of
12 what is the standard of reasonableness of an
13 ordinary person, articulable would be demonstrate
14 specificity, specific facts.

15 Q And that's what I was looking for.
16 You agree with me that it requires some level of
17 specificity before you can go out and just declare
18 an unlawful assembly?

19 A Yes.

20 Q Okay. Go to page 15. This deals
21 with Interference With An Officer - Best Practice.

22 Do you see that?

23 A I do.

24 Q And in the second bullet says, "Warn
25 prior to arrest on this charge by giving an

1 **effective order. Inform the protester how the**
2 **protester is interfering with official duty and**
3 **instruct the protester how to comply."**

4 **Do you see that?**

5 A Mm-hmm.

6 Q **Is that a yes?**

7 A Yes. Sorry.

8 Q **No problem. Am I correct that in**
9 **this situation, the City's policy is that a warning**
10 **is appropriate when an individual is interfering**
11 **with an officer undertaking some police function;**
12 **correct?**

13 A This point relates to the best
14 practices related to interfering with an officer
15 and the explanation on when, what is interference
16 to warn prior to arrest on the charge by giving an
17 effective order. So, and I need to be involved in
18 some sort of official act.

19 Q **And it specifically says that in that**
20 **situation, the best practice is to warn prior to**
21 **arresting someone and by giving them an effective**
22 **order, and it delineates an example what an**
23 **effective order would be; correct?**

24 A Correct.

25 Q **And it would be, among other things,**

1 to inform the protester how he's interfering with
2 official duty and instructing him how to comply;
3 correct?

4 A Yes.

5 Q Okay. Could you help me understand
6 why the City considers it a best practice to
7 provide a warning by giving an effective order in
8 the context of an individual interfering with an
9 officer but doesn't believe that any warning is
10 required before spraying someone with pepper mace
11 using a handheld device under Section IV of Special
12 Order 1-01?

13 MR. DIERKER: Object to the form of
14 the question, argumentative.

15 A I cannot.

16 Q (BY MR. PRAISS) Can you think of any
17 reason why it's a best practice in one case to give
18 a warning which is giving an effective order of
19 what a person needs to do in one -- in this context
20 and why it's different in the context of an
21 interaction with someone who is, again, interfering
22 with a police officer trying to effectuate an
23 arrest, but in that context there is no best
24 practice; in fact, you have free discretion to
25 spray someone to get them to comply?

1 MR. DIERKER: Same objection.

2 Q (BY MR. PRAISS) That's what I'm
3 trying to understand.

4 A I don't have an answer for this.

5 Q Okay. Topic number 4, Mr. Larson,
6 specifically, I'll read it into the record, says,
7 "The City of St. Louis's policies and/or practices
8 concerning who has authority to declare an unlawful
9 assembly."

10 Do you see that?

11 A I do.

12 Q As of September 2017, did the City
13 have any written policies or practices concerning
14 who has authority to declare an unlawful assembly?

15 A No. Any officer can declare an
16 unlawful assembly based on probable cause. We
17 don't train for -- officers are trained relative to
18 the application of specific ordinances and having
19 probable cause to enforce those ordinances.
20 However, in standard practice, especially related
21 to First Amendment issues, the policy is only a
22 command rank, a supervisor, sergeant, lieutenant on
23 up, incident commander, would be responsible for
24 declaring an unlawful assembly.

25 Q You gave me a long answer and I'm

1 getting tired and I had a tough time following you,
2 Mr. Larson, so I apologize but I'll break it into
3 pieces.

4 Am I correct that any individual
5 police officers at any point can declare, based on
6 his or her own opinion, that there's an unlawful
7 assembly?

8 A If the elements of the law are met
9 and the officer has probable cause to believe that
10 the elements are met, yes, they could.

11 Q Okay. Am I correct there is nothing
12 written to provide guidance to an officer with
13 respect to when to declare unlawful assembly other
14 than the language of the statute?

15 A Correct.

16 Q Okay. There's pretty significant
17 consequences when an officer declares an unlawful
18 assembly; right?

19 A Agreed.

20 Q Among other things, based on the
21 City's understanding, as you described earlier,
22 everybody that's congregating there, regardless of
23 what their mental state is and what their agreement
24 or lack of agreement is, could be charged with a
25 crime; correct?

1 And with that in mind, my question
2 is, what training is provided to police officers so
3 that they know to use their discretion correctly?
4 That they know what it takes, the elements, that
5 they don't abuse their discretion and create havoc?
6 I apologize for the long question but that's what
7 I'm trying to understand.

8 MR. DIERKER: I apologize for having
9 to object but I think the second half of the
10 question is fine but the preface --

11 MR. PRAISS: And I'll --

12 MR. DIERKER: -- injected other
13 matters.

14 Q (BY MR. PRAISS) I'll strike the
15 question and do a better job.

16 You agree with me declaring an
17 unlawful assembly is a pretty serious charge;
18 right?

19 A In matters related to the First
20 Amendment, yes.

21 Q And you just explained or testified
22 that any officer has the discretion to declare an
23 unlawful assembly; correct?

24 A Yes, but common practice is only
25 senior officers would do so.

1 Q But there's nothing prohibiting a
2 regular officer, not a senior officer, from doing
3 it under the policies and practices of the City of
4 St. Louis; correct?

5 A Correct.

6 Q Okay. My question to you is, what
7 specific training is provided to every police
8 officer about the standards pursuant to which they
9 can declare an unlawful assembly to make sure they
10 get it right?

11 A The training is based on all of our
12 training, which is probable cause, to ensure that
13 the elements of the crime are present prior to
14 effecting either an arrest or a declaration of
15 unlawful assembly. There's no specific training
16 focused at specifically unlawful assembly.

17 Q To what extent does the City actually
18 test the police officers' knowledge about the
19 relevant elements of the provision to declare
20 unlawful assembly to ascertain to what extent they
21 actually have an accurate working knowledge of the
22 elements?

23 A I don't believe there is a test.

24 Q Okay. And again, I'm trying to
25 understand, is there like a regular training with

1 respect to this element that happens on a monthly,
2 biyearly, yearly basis, to make sure that officers
3 know the elements of the crimes they are about to
4 charge people, in those situations where the
5 discretion to do so?

6 A To the best of my knowledge, and I'm
7 -- I may have gotten lost, no. Not on that
8 specific point or element on unlawful assembly.
9 Obviously it's a topic that we're concerned about
10 and it's something that we want to make sure we're
11 doing correctly.

12 Q Would one way to do that would simply
13 to give an open-ended test to police officers and
14 ask them on a piece of paper write down the four
15 elements for an unlawful assembly and realize that
16 probably less than 5 percent of them could do it
17 correctly would be my guess, no disrespect.

18 MR. DIERKER: I'll object to the
19 statement.

20 A I'm not sure that -- that was a
21 statement more than a question, but no, I mean,
22 there's no -- I've already answered I think there's
23 no specific training related to that.

24 Q (BY MR. PRAISS) Okay. Topic 5, I'll
25 give you a second. It is a long one. I'll let you

1 read it yourself, Mr. Larson.

2 A Okay.

3 Q In a nutshell, that one focuses on
4 the City's policies, practices when an unlawful
5 assembly maybe declared; correct?

6 A Yes.

7 Q And it's pursuant to any legal
8 authority. I want to make it general; okay?

9 A Yes.

10 Q Am I correct that the exhibit that
11 you have in front of you, I believe this is Exhibit
12 6, the PowerPoint presentation --

13 A Yes.

14 Q -- dated August of 2017 and the
15 testimony that you've given me in the last 45
16 minutes captures the City's policies and practices
17 on this issue?

18 A Yes.

19 Q Is there anything other than what's
20 referenced in Exhibit 6 that the City believes
21 permits declaring an unlawful assembly under any
22 provision of law?

23 A I don't believe so.

24 MR. PRAISS: Okay. Why don't we take
25 a short break.

1 (Off the record.)

2 (Plaintiffs' 30(b)(6) Exhibit 13
3 marked for identification by the court reporter.)

4 Q (BY MR. PRAISS) Back on the record,
5 Mr. Larson. We are going to deal with topics 7
6 through 1, and if you look at Exhibit 2, which is
7 the notice of this deposition, the common factor to
8 topic 7-11, if you look at it, is dispersal orders.

9 Do you see that?

10 A Correct.

11 Q And I'm going to cover those topics
12 but maybe to help start the process, I've handed
13 you what's been marked as Exhibit 13.

14 A Okay.

15 Q This was recently produced us to in
16 the litigation. Have you ever seen Exhibit 13
17 before today?

18 A I have not seen it in this format. I
19 am familiar with the dispersal order and the
20 warning of deployment of munitions.

21 Q Okay.

22 A I see it's dated September 1, 2017.

23 Q Do you know who created this
24 document?

25 A I do not.

1 Q What specific steps did you take to
2 prepare to testify with respect to topics 7 through
3 11?

4 A Specifically, I reviewed the order on
5 dispersal in -- which is the chemical munitions
6 order we have talked about, Special Order 1-01,
7 Section XIII, talks about dispersal orders.

8 Q Okay. But in terms of, you know,
9 topics 7 through 11 deal with other issues such as
10 who have authority to issue it --

11 A Yes.

12 Q -- when should it be declared and
13 training with respect to dispersal orders, very
14 different, Section XIII of Special Order 1-01
15 doesn't cover those things?

16 A No, and it's basically -- it's built
17 off of those series of questions were related to
18 what I consider the probable cause requirement of
19 what meets probable cause to declare the unlawful
20 assembly, when the dispersal order should be given
21 relative to the deployment of chemical munitions or
22 the opportunity to comply, things of that nature.

23 Q Okay. This Exhibit 13 is dated
24 September 1, 2017; correct?

25 A Yes.

1 Q Do you know if there was any similar
2 documents dealing with the language for issuing a
3 dispersal order prior to that date that the City
4 used?

5 A I don't -- let me -- I could look at
6 the Special Order and I believe that was dated --
7 what the date is on that. There is some language
8 in there that is very similar to this so I know
9 that this was a topic of discussion as we were
10 preparing the operations order, I believe it's
11 encapsulated in here on dispersal somewhere.

12 Q What are you looking at?

13 A Right now I'm looking at the
14 operations plan.

15 Q Gotcha. The OPs plan that you
16 referenced before, yep.

17 A Yes.

18 Q And please take your time but let me
19 know if you find anything specifically in the OPs
20 plan that deal with dispersal orders that was in
21 effect prior to September 1, 2017.

22 MR. DIERKER: Off the record.

23 (Off the record.)

24 Q (BY MR. PRAISS) Mr. Larson, I know
25 there's a question pending but I'm going to strike

1 it and ask you a new one based on this exhibit.

2 Give me a second to have the court reporter mark it
3 as an exhibit.

4 (Plaintiffs' 30(b)(6) Exhibit 14
5 marked for identification by the court reporter.)

6 Q (BY MR. PRAISS) Are you familiar
7 with Exhibit 14?

8 A I am.

9 Q Could you identify it for the record?

10 A It was the operational Civil
11 Disobedience Response Operations Plan relative to
12 the expected Stockley verdict.

13 Q And it's dated --

14 A September 27, 2017.

15 Q So this was prepared after? Or
16 before the Stockley protest, is what I'm confused.

17 A It would have been issued -- the
18 preparation went prior but probably would have been
19 issued on the date that it was given.

20 Q Okay. During -- in the last few
21 minutes you had a chance to look through this
22 exhibit; correct?

23 A Correct.

24 Q I think at the time the question that
25 I asked you was dealing with any provisions about

1 dispersal or prior to September 1, 2017, which is
2 the date of the dispersal order language in Exhibit
3 13.

4 A Yes.

5 Q And so with that in mind, did you
6 find anything in the operations plan relating to
7 the Stockley protest dealing with dispersal orders?

8 A I did not. I did not locate it.

9 Q Thank you. So sitting here today as
10 the corporate representative, are you aware whether
11 there was anything in writing prior to September 1,
12 2017, that dealt with instructions for the issuance
13 of an unlawful assembly and dispersal orders?

14 A I am not.

15 Q Okay.

16 A And can you tell me where this came
17 from, Exhibit 13?

18 Q I will let your attorney explain that
19 because he sent it to us. If he wants to put that
20 on the record, that would be helpful.

21 MR. DIERKER: We produced that to the
22 plaintiffs within the last week.

23 THE WITNESS: I understand. Okay.

24 Q (BY MR. PRAISS) And again, you have
25 never seen this particular Exhibit 13 before

1 **today's deposition; correct?**

2 A I wouldn't necessarily say that. It
3 relates to dispersal language. I am not -- I am a
4 little confused because it has just a blank heading
5 so it's not an email. I can't say whether I would
6 have gotten it through email or not.

7 I am familiar with the dispersal
8 order language. It is the standard language that
9 we use on -- or that is supposed to be used by the
10 incident commanders when issuing a dispersal.

11 Q **Gotcha. Let's focus on the language**
12 **for a dispersal order. It begins with, "This is an**
13 **unlawful assembly"; correct?**

14 A Yes.

15 Q **So the first thing that has to happen**
16 **is someone has to determine, based on articulable**
17 **facts, that all the elements necessary for an**
18 **unlawful assembly have taken place; correct?**

19 A Yes.

20 Q **And it continues whereby the person**
21 **giving the dispersal order orders the individuals**
22 **"to disperse from this area by moving," and it has**
23 **it in quotes, "to the sidewalk and walking (give a**
24 **clear course of egress)."**

25 Do you see that?

1 A Yes.

2 Q So am I correct that the dispersal
3 order language -- first of all, is this language
4 mandatory?

5 A This verbatim language?

6 Q Yes.

7 A No. It is not, the verbatim language
8 is not mandatory per se.

9 Q At any time since September of 2012
10 to the present, the operative time period for this
11 deposition, has the City had a requirement that
12 specific dispersal order language was mandatory to
13 be used?

14 A Yes, we are required to give a
15 dispersal order prior to the deployment of chemical
16 munitions and it should follow this form. It may
17 be paraphrased, it may not be exact word for word,
18 but the intent is to provide this language and this
19 language was most likely prepared to give hands to
20 people, who would have to make these statements, a
21 document to refer to.

22 Q I think in your answer you used
23 language like it could be paraphrased, it can be --
24 and that it doesn't have to be the exact word for
25 word, so that's what I'm trying to focus on. The

1 person giving the dispersal order, is there a
2 specific requirement that he or she actually has
3 this language in front of her and the only thing
4 that they are modifying is potentially the -- what
5 is the clear course of egress that applies there
6 but the rest of it is going to be read verbatim?
7 That is my question.

8 Or as you can describe it, the person
9 is basically familiar with this general language
10 and kind of paraphrases, to use your words, and
11 gives a dispersal order?

12 A We have to issue a dispersal order
13 and the language that we use would be substantially
14 similar to this.

15 Q Substantially similar but does not
16 require it to be identical?

17 A Does not require it to be identical.

18 Q Okay. Am I correct that the language
19 of the dispersal order shown in Exhibit 13 does not
20 include any language that instructs individuals to
21 cease congregating together?

22 A No, there is nothing in here that --
23 in that language that says that.

24 Q Am I correct the dispersal order
25 does not include any language that instructs

1 individuals how far they have to leave the area?

2 A No. The -- no.

3 Q Is there a reason, from the City's
4 perspective, that is now a policy, why it would not
5 want to include some parenthetical applicable to
6 the relevant situation but that tells people, in
7 order for you to comply with this dispersal order,
8 you need to leave the current area where there's an
9 unlawful assembly and go three blocks, go past the
10 park, go to the intersection?

11 A I think it's the City's position that
12 a dispersal order is common sense. I mean, to
13 disperse, you have to break apart, you have to go
14 away, you have to move. You can't merely take your
15 group and move 50 feet down the street or into
16 another area. You need to cease congregating. You
17 need to go different directions.

18 Q Since you used the language "cease
19 congregating," it highlight my question before --

20 A I believe you used the language,
21 "cease congregating."

22 Q Yes, but you used it now. My
23 question is, again, that language doesn't appear in
24 the dispersal order; correct?

25 A No.

1 Q It doesn't tell people that you need
2 to disperse and not recongregate anywhere; correct?

3 A No, it doesn't say that.

4 Q Okay. Am I correct the dispersal
5 order language in Exhibit 13 doesn't include any
6 language and instructs individuals for how long
7 they have to leave the area; correct?

8 A No. It's the -- once the unlawful
9 assembly is declared, there is no return to the
10 incident location. So there is no reason to say
11 you have to come back in 15 minutes or put a time
12 limit on it. It's over. You have to disperse.
13 You have to leave.

14 Q Right. But, for example, there's
15 language at the end of it that says, "You have five
16 minutes to comply with this order."

17 Do you see that?

18 A Yes.

19 Q There's no language that says you
20 cannot recongregate downtown for the next three
21 hours or this evening because that's what that
22 person declaring the dispersal order is
23 contemplating would satisfy his or her
24 expectations. That language isn't in there;
25 correct?

1 A That language is not present.

2 Q So how does a group of people that's
3 congregating, and now they're being told they're
4 engaged in unlawful assembly based on the City's
5 interpretation as you explained it to us earlier,
6 how are they supposed to know that -- let's say
7 that happens at 8:30 in the evening and then three
8 hours later that same group of people, by
9 coincidence, comes back together and starts
10 congregating again. Because people communicate by
11 social media quite a bit these days. It doesn't
12 take much. Where somebody says, hey, I see a group
13 of people hanging, protesters, in this area.

14 The original dispersal at 8:30 didn't
15 tell them you can't ever come back to the City
16 tonight. How are they supposed to know that, that
17 they're not going to be violating a dispersal
18 order?

19 MR. DIERKER: I'll object to the form
20 of the question, it assumes facts not in evidence,
21 it's argumentative.

22 Q (BY MR. PRAISS) You may answer my
23 question.

24 A I don't know what the -- a person is
25 supposed to know or not supposed to know.

1 Q Well, how is the person possibly
2 supposed to know that he or she is not supposed to
3 come back to the City three hours later if the
4 dispersal order didn't tell them that?

5 MR. DIERKER: Same objection.

6 Q (BY MR. PRAISS) Do you see the
7 problem?

8 MR. DIERKER: Same objection.

9 Q (BY MR. PRAISS) Is there a reason,
10 sir, why the City, when it was drafting this
11 dispersal order language, didn't include language
12 specifying what the expectations are in terms of
13 the time period during which people could not
14 recongregate in a certain area?

15 MR. DIERKER: Same objection.

16 A I don't know the reason.

17 Q (BY MR. PRAISS) And since the
18 Stockley protesters were not aware of any attempts
19 to modify this language such that if we have other
20 situations, potentially, the problems we've been
21 discussing could be eliminated; is that a fair
22 statement?

23 A I'm not aware of any attempts to
24 modify this language presently.

25 Q Okay. We talked before about who had

1 authority to declare an unlawful assembly and I
2 think your testimony was pretty much any officer,
3 based on his or her assessment and the presence of
4 articulable facts, could declare an unlawful
5 assembly and now I want to focus on who has
6 authority to issue a dispersal order.

7 And as of September 2017, did the
8 City have any policies or practices related to who
9 had authority to issue a dispersal order?

10 A The standard policy and practice,
11 much like the declaration of an unlawful assembly,
12 would be that any officer would issue the dispersal
13 order. In common practice, especially in large
14 scale events like this, it would be up to the
15 incident commander to make those declarations and
16 to ensure that those dispersal orders are given.

17 Q To your knowledge, have there ever
18 been situations where the incident commander was
19 not the person who gave the dispersal order but
20 some other officers did so using their discretion
21 in connection with any protests in the City since
22 September of 2012?

23 A Not -- I'm sorry, that's a big
24 question. Could you break that down for me?

25 Q I'm just trying to figure out, to

1 your knowledge, as the City's representative,
2 dealing with the dispersal orders and prior
3 protests, the topic we've been dealing with, have
4 there been situations where an officer other than
5 the incident commander issued a dispersal order?

6 A That was not directed by the incident
7 commander to issue? So the incident commander did
8 not direct officer X to provide that. I am not
9 aware of any time when an officer, on their own
10 volition, during any protest event, would have
11 issued a dispersal order on their own without
12 approval from a commander responsible for that
13 incident.

14 Q Is there a reason, if I'm hearing you
15 correctly that the City has what you've
16 characterized as a standard practice, that even
17 though any officer has the right to declare an
18 unlawful assembly or issue a dispersal order, the
19 standard practice is it's only people at a higher
20 level do so.

21 Why isn't that delineated in writing
22 as a requirement to eliminate the risk that
23 officers who are not maybe as familiar with the
24 procedures do so incorrectly?

25 MR. DIERKER: Objection,

1 argumentative.

2 A I don't have an answer.

3 Q (BY MR. PRAISS) Okay. Have the
4 City's policies or practices related to who has
5 authority to issue a dispersal order changed in any
6 way since the Stockley protests?

7 A No.

8 Q Topic 8, if you look at it, deals
9 with the circumstances when a dispersal order may
10 be issued; correct?

11 A Yes.

12 Q And we looked at the statutory
13 provision, I believe that was Missouri Revised
14 Statute 574.060, which is in Exhibit 12, if you
15 have that?

16 A Are we discussing 574.060?

17 Q Yes.

18 A Okay.

19 Q Am I correct, looking again at topic
20 8, that the circumstance under which a dispersal
21 order may be declared require that there has to be
22 people present at the scene of either unlawful
23 assembly or at the scene of a riot; correct?

24 A An unlawful assembly, the statutory
25 language.

1 Q In fact, the language of dispersal
2 order, back to Exhibit 13, begins with "This is an
3 unlawful assembly"; correct?

4 A Yes.

5 Q So before some police officer
6 declares a dispersal order, there has to be all of
7 the facts necessary to establish an unlawful
8 assembly present; correct?

9 A Yes, sir, the elements of the crime.
10 The unlawful assembly would need to be present
11 before a declaration or a dispersal order should be
12 given.

13 Q So topics 9 and 11 specifically deal
14 with training provided to police officers relating
15 to the City's policies and practices under
16 circumstances dispersal order should be declared
17 and made and enforced.

18 Do you see that?

19 A Yes.

20 Q What specific steps did you take to
21 prepare to testify with respect to topics 9 and 11?

22 A I reviewed the training document
23 prepared on protests on unlawful assembly which I
24 believe talks about dispersal orders. Again, I
25 reviewed the Special Order on chemical munitions,

1 1-01, Section XIII.

2 Q Did you -- when you talk about the
3 training document, you were looking at Exhibit, I
4 believe that's 6 in front of you, Mr. Larson?

5 A Yes.

6 Q Did you look at any actual training
7 materials that are used to educate police officers
8 about dispersal orders?

9 A I did not. I did not review any
10 PowerPoints other than the material that we talked
11 about.

12 Q Okay. Again, in the operations plan
13 that was issued shortly after the Stockley
14 protests, you weren't able to find -- there's no
15 training materials there referenced about the
16 issuance of a dispersal order; correct?

17 A No.

18 MR. PRAISS: Okay. Let me mark up
19 another exhibit here.

20 (Plaintiffs' 30(b)(6) Exhibit 15
21 marked for identification by the court reporter.)

22 Q (BY MR. PRAISS) Do you have Exhibit
23 15 in front of you?

24 A Yes.

25 Q I think earlier today you referenced

1 a two-page document of -- that provided an outline
2 of training materials used by Sergeant Jemerson.

3 Do you recall?

4 A Yes.

5 Q Is Exhibit 15 that document?

6 A It is.

7 Q Okay. And this is kind of the
8 outline for the course that Sergeant Jemerson
9 provides in connection with the Civil Disobedience
10 Team?

11 A Yes.

12 Q And this one's dated September 2014.

13 Do you see that?

14 A Yes.

15 Q And there's a long list of topics
16 included on this two-page document; correct?

17 A Yes.

18 Q Okay. And the instructional goal it
19 talks about "preparing team members for the task of
20 staging a coordinated, safe, constitutionally sound
21 response to this -- civil disobedience events";
22 correct?

23 A Yes.

24 Q So one objective is to make sure that
25 the Civil Disobedience Teams knows how to act in a

1 constitutional, sound manner; correct?

2 A Yes.

3 Q With respect to the use -- I'm sorry.
4 With respect to dispersal warnings and the
5 requirements regarding the use of chemical
6 munitions, that's identified in the fourth topic;
7 correct?

8 A Yes.

9 Q Have you yourself, in your individual
10 -- strike that.

11 As a corporate representative or in
12 your individual capacity, have you actually ever
13 seen the material -- specific underlying materials
14 that Randy Jemerson uses to teach the elements laid
15 out in the fourth bullet point here?

16 A I did not.

17 Q In preparing for today's deposition
18 you didn't take the time to do that?

19 A No.

20 Q Do you know if he actually has any
21 handwritten materials, any typed materials that he
22 actually provides the members of the Civil
23 Disobedience Teams to make sure they act in a
24 constitutionally sound manner in issuing dispersal
25 warnings and releasing chemical munitions at

1 **protesters?**

2 A I do not.

3 Q Would it be a concern for you to find
4 out that there are no such documents prepared and
5 provided to the members of the Civil Disobedience
6 Team?

7 A It would be a concern; however, I
8 know that in order to have an outline such as this
9 prepared, that there would have to have materials
10 that would support this outline in some way, shape,
11 or form, and, therefore, I believe that there are
12 -- that that is being -- that is occurring, that
13 those training materials are available.

14 MR. PRAISS: Go off the record a
15 second.

16 (Off the record.)

17 Q (BY MR. PRAISS) Moving on. We had a
18 long discussion between counsel, and you were
19 present here to hear it. My question to you is,
20 other than Exhibit 6, which is a presentation that
21 was given to senior staff on August 16, '17, and
22 the two-page outline used by Mr. Randy Jemerson
23 that just highlights by topics all the things that
24 he covers in the Civil Disobedience Team training,
25 you, as a corporate representative, are not aware

1 of any other training materials used to train
2 police officers about the use of chemical agents,
3 about dispersal orders or unlawful assembly or any
4 of the other topics we've discussed so far today;
5 is that a fair summary?

6 A That is a fair summary, I am not
7 aware of anything other than what we've discussed.

8 Q Thank you. We are going to the last
9 topic and that is topics 18 through 24. So there
10 is a large group there.

11 A Yes.

12 Q I will try and cover them here in the
13 next maybe 45 minutes or so and we'll be done.

14 (Plaintiffs' 30(b)(6) Exhibit 16
15 marked for identification by the court reporter.)

16 Q (BY MR. PRAISS) Mr. Larson, you've
17 been handed what's been marked for identification
18 purposes as Exhibit 16.

19 Do you see that?

20 A Yes.

21 Q This is a Declaration by Charles Wall
22 regarding Exhibit A, which is attached to his
23 Declaration.

24 Do you see that?

25 A Yes.

1 Q And you identified early on today
2 that Mr. Charles Wall was actually, if memory
3 serves me correctly, the only individual other than
4 attorneys that you met with to prepare for today's
5 deposition; is that correct?

6 A Yes.

7 Q Okay. And in paragraph 2 Mr. Wall
8 identifies that he is employed by the St. Louis
9 City division of police and is current assigned to
10 the police legal unit, and assist in discovery and
11 related matters.

12 Do you see that?

13 A Yes.

14 Q That's what you referenced here
15 today; correct?

16 A Yes.

17 Q Gotcha. I want to focus on really
18 the substance of Exhibit A in particular. Is to
19 your knowledge, first of all, Mr. Wall the author
20 of Exhibit A?

21 A I believe he created the spreadsheet
22 with possibly help from the IT department to
23 identify these potential -- these incidents.

24 Q Okay. Are you familiar with what
25 records -- what records the City maintains that

1 **were the source of all this information?**

2 A I believe there were the records
3 management system, I/LEADS we've discussed was one
4 source. I believe there was a source from the
5 intelligence division/Real Time Crime Center that
6 contributed to this, and I also believe that there
7 were possibly information received from a CDT or
8 SWAT supervisor that had a list of incidents that
9 contributed to these.

10 Q **You identified I believe three**
11 **different sources?**

12 A Yes.

13 Q **For each one, if you could go slower**
14 **for me and identify what that source was and what**
15 **type of information, if any, you believe that**
16 **source would have provided for any of the columns**
17 **identified in Exhibit A?**

18 A Well, the -- the sources are -- I'm
19 going to do this rather generally at first. The
20 information, as far as detail summary, the units
21 involved, the disposition of arrests, things like
22 that, that all came from the records management
23 system.

24 The actual protests themselves, or,
25 we got two lists from the two groups, we compared

1 them to the records management system or searched
2 parameters within the record management system, and
3 then created this list of potential -- of cases
4 that met the criteria of protest events based on
5 size.

6 Q Okay. I may follow up on that in a
7 few minutes, but let's keep going and I'll decide
8 how much more detail I need.

9 Am I correct the summary in Exhibit A
10 provides -- covers protests in the City from March
11 15, 2012, until the last one identified is July 24,
12 2018?

13 A Yes.

14 Q I want to go through the headings on
15 Exhibit A, and obviously the first one is Date. Am
16 I correct that just reflects the date of when that
17 particular protest took place?

18 A Yes.

19 Q Start Time, pretty self-explanatory,
20 it's the start time of the protest?

21 A Yes.

22 Q Location is where the protest took
23 place?

24 A Yes.

25 Q Okay. And Action Name. Who

1 **determined the name that's included in Exhibit A?**

2 A I would assume Charlie Wall, that
3 Sergeant Wall did, or the -- from the original
4 list, the Action Name is the group that was
5 associated with the incident. So there's several
6 obviously different groups, that was the -- that's
7 how it would be determined the Action Name.

8 Q **Okay. The next column is the number**
9 **of protesters. What information did Mr. Wall rely**
10 **on to come up with the numbers identified?**

11 A The estimated numbers from the
12 reports and wherever we could glean that
13 information from. So most likely a records
14 management system.

15 Q **The Details Summary column has more**
16 **language than other columns.**

17 **Do you see that?**

18 A Yes.

19 Q **And again, this was inputted by Mr.**
20 **Wall; correct?**

21 A Yes.

22 Q **Did anybody provide an input with**
23 **that, or what information did he use to describe**
24 **the details that he laid in?**

25 A He would have used the information

1 that was provided from the two lists, checking that
2 against the records management system, reviewing
3 the reports, and then creating a detail summary.

4 Q Okay. Police Manpower, where would
5 he have gotten that information?

6 A From the records management system,
7 who was involved.

8 Q Okay. When you say "records
9 management system," you used that phrase twice now.
10 What specifically are you -- what system are you
11 referring to?

12 A The I/LEADS reports.

13 Q I just wanted to make sure we were on
14 the same page. Thank you. Disposition includes
15 various information and level of detail. Where
16 would that information have come from?

17 A From the dispositions involving
18 arrests would have come from the I/LEADS report.

19 Q Okay. The Report number, what does
20 that refer to?

21 A That refers to the incident case
22 number that we were discussing earlier, the I/LEADS
23 report number that relates that specific incident,
24 the number is tied to that.

25 Q And so in some situations there is

1 **only one, others there's a whole series of them.**
2 **And again, how is that determined whether there's**
3 **one or a series with respect to one protest?**

4 A The size of the event, the number of
5 the arrests, the individual charges, how it, just
6 it's determined on a case-by-case basis.

7 Q **Okay. How are those reports**
8 **maintained by the City?**

9 A They're maintained within the I/LEADS
10 system.

11 Q **So if I wanted a report identified**
12 **here, how difficult would it be to locate it?**

13 A It would not be difficult at all.

14 Q **How difficult is it, if at all, to**
15 **determine all of the applicable reports that**
16 **correspond to a particular protest?**

17 A I'm a little confused by the
18 question.

19 Q **Yeah. So when Mr. Wall was preparing**
20 **-- putting this document and, let's say, take the**
21 **first line item, Occupy Midwest, and the one dated**
22 **March 15, '12.**

23 A Mm-hmm.

24 Q **How hard is it for him to run a**
25 **search and locate all the applicable reports that**

1 relate to that one? I guess different way of
2 asking it is, when he came across the report number
3 identified here, how does he know there aren't any
4 other reports out there?

5 A The search parameter, primarily from
6 the IT department, information technology, would
7 have put in specific parameters, keyword phrases
8 keyword searches, protest, arrests, date and time.
9 So once we could narrow down the date and time of
10 particular incidents, we could run a search through
11 the records management system, I/LEADS, we could
12 search it by various parameters to determine that
13 we have everything that's available.

14 Q Good. The next column is P and a
15 number sign. What does that stand for?

16 A P and the number sign, I believe that
17 would be the, quote, P number. So a P number is a
18 number that is in our computer-aided dispatch
19 network.

20 So an officer is sent to a location.
21 A P number is generated. P number associates that
22 officer to the call for service. If there is a
23 report written, obviously there is a complaint
24 number drawn, complaint number is associated to a P
25 number, and then the report is prepared. If the

1 report is not prepared, a code might be given,
2 responded to monitor protest, no police action
3 needed, put me back in service. The P number is
4 closed.

5 But the P number is just there, I
6 don't know if he was, what purpose he had it on
7 that list for, if it was something he was going to
8 go back and do or if -- if there was, if we decided
9 not to follow up on that information.

10 Q Very few of these entries have a P
11 number referenced in this column.

12 Do you see that?

13 A Yes.

14 Q Help me understand what is the
15 significance of a P number that's identified on
16 those few line items where it's present, and
17 equally, what is the significance of the fact that
18 there is no P number on the majority of them?

19 A The majority of the P numbers, it
20 appears from this list, don't have arrests
21 associated with them. So we knew there was a
22 protest, we monitored the protest, and no protest
23 number or call for service.

24 Now, I am also looking at, it looks
25 like chronologically, the inclusion of the P number

1 becomes more prevalent in more recent time lines
2 and it may have been to associate potential
3 information with those, with these incidents
4 internally.

5 Q Let's look at the entry for the
6 Stockley verdict protest on September 15, 2017.
7 There is a long list of P numbers associated there.
8 Do you see that? On the bottom of the page and
9 it's page 4 of 9 of this filed with the court?

10 A Yes.

11 Q I'm just using that one as an example
12 where --

13 A Page 4 of 9. Yes. 9/15, yes, at the
14 bottom of the page.

15 Q And you see under the column
16 associated with the P number, there is quite a few
17 entries there; right?

18 A Yes.

19 Q If I was to get a copy of the first
20 one, P1709150933, what would I be looking at?

21 A You would be looking at a call log in
22 the computer-aided dispatch that relates to a
23 dispatch request.

24 Q And what's the significance of having
25 a P number in connection with a protest, if any?

1 A There is no -- I mean, we use P
2 numbers for every police call for service.

3 Q Okay. Is there -- can you think of a
4 reason why Mr. Wall included this column and what
5 significance, if any, does it have? Is what I'm
6 trying to understand.

7 A I think the significance is that a P
8 number was located related to the incident.

9 Q But the fact that the P number was
10 referenced here has no significance in terms of
11 what the police conduct was or what the protesters
12 did or what level of force was used or any other
13 issues?

14 A No, I don't believe so.

15 Q Simply a call to dispatch is all it
16 is?

17 A Yes.

18 Q Okay. I think that more than enough
19 covers the P number issue.

20 (Off the record.)

21 Q (BY MR. PRAISS) The last two columns
22 there titled Resistance and Force. Do you see
23 those, Mr. Larson?

24 A Yes.

25 Q What is your understanding of where

1 Mr. Wall would have gotten the information that he
2 included in those two columns?

3 A That would have come from the I/LEADS
4 reports that were created.

5 Q Under the column involving Force, do
6 you see some places identify the use of mace?

7 A Yes.

8 Q And other places identify the use of
9 chemical munitions; correct?

10 A Yes.

11 Q Is there, for purposes of this chart,
12 are those two terms mutually exclusive?

13 A I would say for the purposes of this
14 chart, they are not mutually exclusive. The
15 chemical munitions relate -- would relate more to
16 the launching the gas guns, the pepper balls, those
17 type of things. When he has mace, that would be
18 much more akin to the handheld canister.

19 Q When he uses "mace," does it also
20 encompass a situation where a fogger is used?

21 A It could.

22 Q Do you know one way or the other?

23 Rather than could, does it, is my question?

24 Because the word "mace" appears a lot in many

25 instances and I'm trying to understand when he uses

1 the word "mace," in his mind is he saying that's
2 the use of the fogger, or the handheld, or both?

3 A I would say that it is exactly that,
4 it is mace. And it doesn't delineate which,
5 whether it was the small canister or the high
6 output canister, in the preparation of that. But
7 it was separate from the chemical munitions being
8 launched by SWAT.

9 Q So when SWAT launches chemical
10 munitions, using the different techniques that they
11 have, that's under chemical munitions, and for
12 purposes of this chart, when he uses the word
13 "mace," it applies to mace regardless the manner in
14 which it's deployed, whether it's a handheld device
15 or a fogger; correct?

16 A Yes.

17 Q Gotcha. Thank you for that
18 clarification. Every time there is a reference
19 here to "mace" or "chemical munitions," am I
20 correct that under the Special Order and I/LEADS
21 report, was supposed to have been prepared?

22 A An I/LEADS report should have been
23 prepared.

24 Q On this chart which record would
25 identify I/LEADS report that corresponded that

1 would reflect the use of mace or chemical munitions
2 in connection with that protest?

3 A The report number.

4 Q So the report number is the key
5 document if I'm interested to learn about the use
6 of chemical munitions or mace for each protest?

7 A Yes.

8 Q Gotcha. Do you remember we looked a
9 little before at that After Action Critique that
10 you submitted?

11 A Yes.

12 Q You recall you were the only one who
13 did so after the Stockley verdict? My question to
14 you is, is there any reference on this chart that
15 identifies whether or not an After Action Critique
16 was issued and submitted by all of the detail
17 commanders and supervisors with respect to the
18 special/major events identified in these protests?

19 A There is not a column for them.

20 Q Okay. Am I correct that when it
21 talks in the After Action Critique about the
22 handling special/major events, that each of these
23 protests would qualify as a special/major event?

24 A Not necessarily. Some of these are
25 pop up protests that we weren't prepared for that

1 we had to respond quickly to. So an operations
2 plan would not have been created if there was an
3 operations plan for any of -- any of these, and I'm
4 not presently aware which ones may have had one and
5 which ones wouldn't. The larger ones would have
6 had one if we were prepared for civil disturbance.

7 Q So to have an operational planning
8 document prepared, if I'm understanding correctly,
9 the City has to have some kind of a notice that an
10 event's going to happen and in that situation,
11 subsequent to that event is when the detail
12 commanders and supervisors are supposed to submit
13 their After Action Critique; correct?

14 A Yes.

15 Q Okay. From your understanding of the
16 systems used by the City, how difficult is it to
17 search for and determine to what extent an
18 operational plan was created for a particular
19 protest that's identified here?

20 A It would not be difficult. The
21 operational planning unit would keep a record of
22 the events that they have created details for and
23 they would be on file.

24 Q And how difficult would it be to
25 determine whether or not all the detail commanders

1 and supervisors submitted an After Action Critique
2 after that event, assuming that there was an
3 operational plan issued for --

4 A It shouldn't be difficult because
5 they would have been sent to operational planning
6 for filing just as you received mine.

7 (Off the record.)

8 Q (BY MR. PRAISS) I'll give you my
9 highlighter.

10 A Okay. Thank you.

11 Q I would appreciate -- I've gone and
12 done my best but I doubt that I did a very good job
13 so I need to you help me. Highlight those rows and
14 as you go through it, identify on the record maybe
15 some information, the date, for example, where
16 officers issue a dispersal order and/or use
17 chemical munitions or mace in connection with a
18 protest that's outlined here. See what I'm asking
19 to you do?

20 A Yeah. You're asking for -- okay.

21 Q Let's slow down. Let's make sure
22 we're doing the same thing.

23 A Mm-hmm.

24 Q So the first one you identified,
25 which I already unbelievably missed, is the second

1 row, correct, where mace was used?

2 A Yes.

3 Q Okay. Please take a few seconds,
4 we'll go off the record and identify and mark, for
5 your benefit and mine, those incidents where you
6 see dispersal orders issued over the PA, unlawful
7 assembly declared, in the columns under Disposition
8 and in the column under Force where it indicates
9 that mace and chemical munitions were used. I'm
10 going to focus on those.

11 A Okay.

12 (Off the record.)

13 A Thank you, I believe I'm finished.

14 Q (BY MR. PRAISS) Thank you, Mr.
15 Larson, for doing that. It will make the
16 questioning go much, much quicker, trust me.

17 A I understand.

18 Q You notice that on topics 18 through
19 24 it uses the phrase "prior protests," which is a
20 defined term; right? In the definitions section of
21 the notice?

22 A Correct.

23 Q Okay. And it makes a distinction
24 between those situations when individuals are
25 protesting police conduct or are not; do you

1 understand that?

2 A Yes.

3 Q So I have one other favor to ask of
4 you. I'll give you my pen because it's red ink and
5 take your time and go through all the rows and to
6 the extent the particular protest, as the City's
7 representative, you understand involve protesters
8 challenging police conduct, find a way to write
9 maybe the abbreviation I came up with just now of
10 PPC, standing for protesting police conduct. So
11 what I want is to have the City's understanding of
12 which of these protests involved protesters
13 protesting police conduct.

14 (Off the record.)

15 A Okay, I'm done.

16 Q (BY MR. PRAISS) Thank you, Mr.
17 Larson. Now this should be just an exercise of
18 looking at your markings. If you look at the
19 Exhibit A, that you've now highlighted and
20 identified with the abbreviation PPC for protesting
21 police conduct in applicable rows, for March 15,
22 2012, until September 17, 2017, when the Stockley
23 protest took place, during that time period, please
24 let me know how many protests took place in the
25 City of St. Louis where the police either declared

1 an unlawful assembly or issued a dispersal order in
2 responding to a protest.

3 A I'm sorry, both conditions need to be
4 met?

5 Q Either condition. No, no, either
6 one.

7 A Can you give that to me again?
8 Because I want to make sure I marked this
9 correctly.

10 Q Okay. I'm looking for any protest
11 from March 15, '12, the beginning, until the
12 Stockley protest, where the police declared an
13 unlawful assembly or issued a dispersal order.

14 A Okay.

15 Q So it will be in the column --
16 obviously, we're looking under -- the times when
17 you highlight the column under Disposition, and
18 just count those for me.

19 A Okay. If my math is correct, it
20 appears to be 16 times dispersal orders were given.

21 Q Okay. Again, my question was, either
22 dispersal or an unlawful assembly. I'm combining
23 the two. I'm not drawing a distinction.

24 A That either a dispersal order or an
25 unlawful assembly was committed.

1 Q Okay. So just so the record is
2 clear, and I apologize, but from your review of
3 your highlighting on Exhibit A, it's your testimony
4 there appear to be 16 different instances from
5 March 15, 2012, until September 17, 2017, when the
6 City declared an unlawful assembly or issued
7 dispersal order in responding to a protest; is that
8 correct?

9 A Yes, the number appears to be 16.

10 Q I'm puzzled because I only came up
11 with 13, but I believe you. You probably found
12 instances I forgot to highlight, so I'm looking
13 again at my work real quick. Looking for the words
14 "dispersal order" or "unlawful assembly" under the
15 column of Disposition and trying to get those added
16 up.

17 A This time I came up with 15.

18 Q Okay. Let's go with your number.

19 MR. DIERKER: You were talking about
20 prior to September 15?

21 MR. PRAISS: Up through including the
22 Stockley protest.

23 A And I counted through the entire
24 list.

25 Q (BY MR. PRAISS) And of those 15 rows

1 where you have identified that the City declared an
2 unlawful assembly or issued dispersal order, of
3 those 15, how many have the abbreviation PPC for
4 protests of police conduct included? Do you
5 understand my question?

6 A I do. I'm --

7 Q Of the 15 you've just identified, how
8 many have involved the public protesting the police
9 conduct?

10 A It looks like 12.

11 Q Fair to say that the vast majority of
12 the instances where the City, the police declare an
13 unlawful assembly or issue a dispersal order, they
14 involve situations where the public was protesting
15 the police conduct?

16 A I think that there's numerous
17 explanations for that, but yes, based on the list
18 that we've prepared and the questions that you've
19 asked me, those things are -- yes.

20 Q If you could do me a favor and refer
21 back to your -- the Exhibit A, focusing again on
22 the time period from March 15, 2012, up to and
23 including the Stockley protests, identify the
24 number of instances where the police used either
25 chemical munitions or mace in responding to a

1 protest, and let me know how many instances you
2 come up with.

3 A I want to make sure I understand you
4 correctly, sir.

5 Q All I'm asking now is if you look at
6 the use of Force column, use of Force and look for
7 any situations where either "chemical munitions" or
8 "mace" appears, and let me know how many rows you
9 come up there.

10 A Thirteen.

11 Q Just to make sure we're referring to
12 the same thing, it's your testimony that there is
13 13 rows in Exhibit A where under the use of Force
14 column the words "mace" or "chemical munitions"
15 appear?

16 A Yes.

17 Q Okay. Of those 13, how many
18 specifically identify chemical munitions, which you
19 have explained is distinct in this case because of
20 use, it's referring to deployment through the SWAT
21 Team or -- but not of mace through a handheld
22 device.

23 A I believe 5.

24 Q Going back to the original number you
25 gave me of 13 instances where either mace or

1 chemical munitions are referenced, of those, how
2 many rows also include the abbreviation PPC that
3 you've marked indicating that not only were
4 chemical munitions or mace used but involved a
5 protest where the public was protesting police
6 conduct?

7 A Five.

8 Q Was there ever a Code 1200 in effect
9 during the Stockley protests?

10 MR. DIERKER: Object to form, lack of
11 foundation.

12 Q (BY MR. PRAISS) Do you understand my
13 question, sir?

14 A I do. I do believe you're asking if
15 a formal Code 1200 was declared, and I know that we
16 had mutual aide units involved, St. Louis City, the
17 Highway Patrol, those would come under the auspices
18 of a 1200. Whether we actually, quote, declared a
19 1200, I can't say we did using that terminology but
20 we did coordinate with St. Louis County, the
21 Highway Patrol unit -- agencies, which would fall
22 under an umbrella of a potential 1200.

23 Q In order to bring in those resources,
24 is it a prerequisite that you have to declare a
25 Code 1200?

1 A Not as a prerequisite. 1200, because
2 this was more of a planned response to a proposed
3 issue or potential issue, we would do that. The
4 1200 is really an emergency operations all hazard
5 plan for what we would do in the case of a
6 spontaneous type event. So I can't tell you that
7 we declared a 1200 in principle or verbiage but the
8 spirit of having mutual aid was performed.

9 Q **Gotcha. Did the City consider the**
10 **Stockley protest to constitute a 7250 at any point?**

11 MR. DIERKER: Objection, form, lack
12 of foundation.

13 A A 17250, as far as I believe -- is
14 that the unlawful assembly? Or --

15 Q **(BY MR. PRAISS) The Jemerson**
16 **training document I think refers to that?**

17 A Oh, you're talking about a 7250.

18 Q **Yes.**

19 A A barricaded subject. I'm sorry.
20 No, it would not have fallen under the barricaded
21 subject type of incident command.

22 Q **Gotcha. Okay.**

23 A Sorry for misunderstanding.

24 Q **No, I'm happy we clarified it. Give**
25 **me one second to ask my colleague here a question**

1 but I think we may be close to an end, if not
2 already there.

3 (Off the record.)

4 MR. PRAISS: Mr. Larson, I very much
5 appreciate your patience today and throughout this
6 whole process. I have no further questions for you
7 and thank you very much.

8 MR. DIERKER: Well, regrettably, I do
9 have a couple.

10 MR. PRAISS: Which is always a risk
11 that I may ask a bunch of new questions.

12 (Off the record.)

13 EXAMINATION

14 QUESTIONS BY MR. DIERKER:

15 Q So, Major, I would like to clarify
16 for the record, we've talked about foggers in
17 connection with mace, and is a fogger also known by
18 another term?

19 A It could be known by a streamer a
20 high output mace.

21 Q Okay. And that device, what is the
22 difference between that device and the hand -- the,
23 what I'll describe as the individual handheld
24 device?

25 A It's a larger container and it shoots

1 a stream farther, dissipates.

2 Q And as far as its usage, is its usage
3 -- when would an officer use a streamer as opposed
4 to the smaller handheld device?

5 A The -- they would use the -- a
6 sergeant or above would be issued the larger
7 device. It would be used as -- the same as the
8 handheld device but when you need a greater range.

9 Q So it would depend on the
10 circumstances in which the officer feels that it
11 needs to be deployed against an individual or more
12 than one individual?

13 A Potentially, yeah, it's used
14 primarily with crowd dispersal and crowd control.

15 Q Okay. I'd like to call your
16 attention to Deposition Exhibit 14 and I'd like to
17 call your attention to what's Bates stamped CITY
18 00421. Can you read the headings?

19 A The heading is Civil Disobedience
20 Response Protocols.

21 Q And what circumstances does that
22 address, in summary?

23 A In summary, it's a outline or
24 guideline for the protocols that will be used
25 during a civil disobedience event.

1 Q And any specific protocol or
2 circumstance that it's designed for?

3 A I mean, I'm not sure I understand
4 your question, sir.

5 Q I'll rephrase it. To what extent, if
6 any, does it pertain to dispersal orders or
7 announcements?

8 A Oh, it talks about the importance of
9 respecting the individuals' First Amendment rights
10 and that law violations and dispersement issues are
11 given appropriately, that warnings need to be
12 given, we need to allow for the appropriate time
13 for persons to vacate the area, and then afterward,
14 the appropriate time, an incident commander or
15 operation commander can indicate that arrests will
16 need to be made for violations of law.

17 Q And with regard to the shorthand
18 terminology of "kettle," I would like to refer you
19 to page CITY 00427 in Exhibit 14, if you could read
20 the headings on that?

21 A The Civil Disobedience Team -- Civil
22 Disobedience Team Arrest Procedure.

23 Q Is there another heading below that?

24 A Next is Civil Disobedience Hand-Off
25 Team.

1 Q And in your understanding, does that
2 address the situation where arrests from one to far
3 more than one would have to be dealt with?

4 A Yes.

5 Q I would like to put on the record
6 that when we had a recess, did we undertake to try
7 to get some answers to the camera maintenance
8 issues that were raised earlier?

9 A Yes.

10 Q And is it your understanding -- what,
11 if anything, is your understanding as to who
12 maintains the camera at 14th and Locust?

13 A The maintenance of the camera would
14 be the street department, City of St. Louis. That
15 was the agency I alluded to in my prior testimony
16 as working with us who maintains the camera. I
17 wasn't sure -- I wasn't 100 percent sure it was the
18 street department and I didn't want to state that
19 without having that confirmed knowledge.

20 Q And with regard to the video that's
21 actually recorded, is that a matter of software or
22 hardware?

23 A My understanding is it is a matter of
24 software, not hardware.

25 Q And the software is maintained by

1 **whom?**

2 A The software is licensed from the
3 Genetec company who is currently assisting us
4 trying to resolve the issue with the corrupted
5 data.

6 MR. DIERKER: If I could huddle with
7 Andrew for just a second?

8 (Off the record.)

9 MR. DIERKER: Nothing further.

10 RE-EXAMINATION

11 QUESTIONS BY MR. PRAISS:

12 Q **I have a series of new questions for**
13 **you, my friend. I'm sorry.**

14 A I knew you did.

15 Q **And going in reverse order, the last**
16 **series of questions dealt with video, that is, I**
17 **believe, topic 25 of your deposition, the one that**
18 **you were unable to -- the City's unable to retrieve**
19 **at this point; you understand that?**

20 A Correct. I believe we provided a
21 file in all of the files that we have provided and
22 it was determined that we have -- that that file
23 was not functioning properly.

24 Q **It's the only file from the only**
25 **camera that we cannot access; you understand that?**

1 A My understanding was that there were
2 two files from that particular camera on two
3 different dates that couldn't be accessed.

4 Q But it's that one camera I meant to
5 say?

6 A Yes.

7 Q It's only one camera among all the
8 cameras that were used to record the Stockley
9 protest for which -- which is critical in our eyes
10 but, coincidentally, we don't have the ability to
11 view what it recorded. You do understand that's
12 what we're talking about?

13 A I do.

14 Q And it sounds like at some point
15 during the break you made some inquiries about that
16 subject; correct?

17 A Yes.

18 Q Who did you call?

19 A We talked with Lieutenant Brent Feig
20 of the intelligence division, Real Time Crime
21 Center.

22 Q Okay. And did you ask him if there
23 was any written communications between anybody on
24 the City side and Genetec with respect to the
25 circumstances relating to the malfunction of this

1 particular camera and the fact that these video
2 recordings are not retrievable?

3 A I did not ask him that.

4 Q Okay. Is there a reason why you
5 didn't?

6 A No. I mean, I know that we're
7 working on trying to get a resolution to this one
8 way or the other, but no, I did not.

9 Q So sitting here today you still have
10 no knowledge, no different than it was many hours
11 before we were here today, in terms of at what
12 point in time somebody first realized that that
13 camera was malfunctioning back around September 15,
14 2017?

15 A No.

16 Q Okay. Is it fair to say that,
17 sitting here today as the representative of the
18 City on topic 25, you are making an assumption that
19 the camera never recorded rather than that the
20 recording was somehow lost subsequent to?

21 A No, based on my inquiry into the
22 topic, there is data present in the file.
23 Therefore, the belief is that something was
24 recorded and that somehow the software has not
25 either adequately recorded it or -- for play back,

1 that's what the whole process is, the investigation
2 is ongoing trying to determine what is there and is
3 it recoverable, but there is data present is what I
4 am told.

5 Q And at this point, do you know one
6 way or the other if at any time since September of
7 2017, that camera has consistently, up until the
8 last few weeks, malfunctioned consistently and
9 never been able to record for the same software
10 problem that you reference or, to the contrary,
11 somewhere along the line somebody realized there
12 was a problem and they fixed the camera?

13 A I don't have that answer.

14 Q Okay. Counsel asked you a series of
15 questions about Exhibit 14, the OPs plan?

16 A Yes.

17 Q Do you have that?

18 A Yes.

19 Q Again, I'll work backwards. I think
20 the last sequence of questions dealt with what's on
21 Bates number CITY 427 and 428. I'll let you catch
22 up with me.

23 A Okay. 427, 428.

24 Q Am I correct the headings on page 427
25 in that situation deals with a Civil Disobedience

1 Team Arrest Procedure and Civil Disobedience

2 Hand-Off Team 1?

3 A Yes.

4 Q Am I correct neither of those
5 subjects have anything to do with the use of
6 chemical agents, dispersal orders, or unlawful
7 assemblies?

8 A No. That's correct.

9 Q Okay. And if you go, please, to the
10 other page that you were directed to, I believe
11 it's CITY Bates number 421 and 422, and am I
12 correct the heading for that section is Civil
13 Disobedience Response Protocols?

14 A Yes, that is correct, sir.

15 Q Okay. Am I correct that the sum and
16 substance of that section under Civil Disobedience
17 Response Protocols is five paragraphs, about half a
18 page?

19 A That is an appropriate description,
20 sir.

21 Q Am I correct that the phrase -- the
22 terms "unlawful assembly" and "failure to disperse"
23 appear only one time in a parenthetical on the
24 bottom of CITY 421?

25 A Yes.

1 Q Am I correct there is nothing in this
2 section in terms of protocols explaining or
3 providing guidance under what circumstance, if any,
4 unlawful assembly or failure to disperse should be
5 made by police officers?

6 A I'm sorry, you lost me, but I --

7 Q I'll ask it again.

8 A Please. Thank you.

9 Q Am I correct that, other than the
10 fact that the terms "unlawful assembly" and
11 "failing to disperse" appear in a parenthetical,
12 there is nothing in the section that we're looking
13 at, the Civil Disobedience Response Protocol, that
14 advises police officers under what circumstance
15 they can declare an unlawful assembly or issue a
16 failure to disperse declaration?

17 A Yes.

18 Q There is no such, nothing else;
19 correct?

20 A There is nothing there that
21 references that.

22 Q Am I correct there is nothing in this
23 section under Civil Disobedience Response Protocols
24 that in any way mentions the -- under what
25 circumstance, if any, it's appropriate to use

1 chemical agents, whether it's handheld pepper spray
2 or other chemical agents?

3 A No, I don't believe so.

4 Q Okay. And then finally, there was a
5 reference at the very beginning of the questioning
6 from counsel about the term "foggers"; do you
7 recall?

8 A Yes.

9 Q And you said that there is a name for
10 it also as streamers?

11 A Some officers refer to it as
12 streamers. I think there is a lot of confusion on
13 the -- on the topic itself because people tend to
14 use different nomenclature for similar items.

15 Q Okay. And that's what I'm trying to
16 focus on. There is only one actual object, whether
17 it's called a fogger or a streamer, there's not
18 different types, it's one device --

19 A Right.

20 Q -- that deploys pepper mace at a very
21 high rate and over a larger area; correct?

22 A Yes.

23 Q Okay. Because the questioning made
24 me at least confusingly understand that you were
25 suggesting there is different types, and that's

1 **incorrect?**

2 A No, it's one particular. There's the
3 handheld canister and the high output, which is
4 called by multiple different names.

5 Q Regardless of what name it's called,
6 is it fair to say that the high output fogger, by
7 its nature, disperses a greater amount and over a
8 larger area of pepper spray than the handheld
9 device?

10 A I think it launches pepper spray at a
11 greater distance.

12 Q But also not only at a greater
13 distance but over a wider range?

14 A It could spread, I would assume.

15 Q It's not necessarily -- you're not
16 telling me it's designed to only fire a very narrow
17 stream that goes a longer distance; it also has the
18 capability and it does in fact spray over a wider
19 range than a handheld device?

20 A I don't have an answer as far as like
21 I feel like you're asking a very technical question
22 about the stream. It goes out. It goes out at a
23 distance. As it's going out, it could disperse and
24 -- but as far as that goes, that's the best answer
25 I can give you.

1 Q Okay. And do you recall very early
2 on today we looked at, for example, what we marked
3 at Exhibits 8 and 9 of your deposition. In
4 particular Exhibit 8, do you recall you testified
5 that there is a significant area that -- it's in
6 the light blue color -- that is indicative of a
7 very large spray range, based on the use of a
8 fogger is what it appears to be?

9 A Potentially based on the fact that
10 that's assuming that this is in fact that that
11 cloud is an OC mace chemical.

12 Q Can you think of anything else that
13 was used by the police in connection with the
14 kettle that would generate that kind of a spray
15 mist over a group of people?

16 A No, I cannot, other than inert smoke
17 perhaps, but I don't believe that that would be
18 applicable.

19 Q You would not use inert smoke -- gas
20 with a group of people surrounding you?

21 A No, generally not.

22 MR. PRAISS: I have no further
23 questions.

24 MR. DIERKER: I think for the record,
25 we already made it clear that there were some loose

1 ends that we need to tie up and produce some
2 additional documents, and because there was some
3 duplication in topics between this case and the
4 Molina case, we are anticipating a further 30(b)(6)
5 deposition involving the Molina case primarily, but
6 I just want to put on the record that we are
7 agreeing that the additional materials that are
8 provided in connection with this case can be the
9 topic of further deposition at the time of the
10 Molina 30(b)(6).

11 MR. PRAISS: Since you're putting
12 this on the record, I'll ask one point question. I
13 mean, I am here and clearly I would love to wrap up
14 this issue about the training. And my
15 understanding, Andrew, from what you said, is that
16 you followed up and determined that there is in
17 fact additional training materials, a PowerPoint.

18 And my question is, I'm happy to wait
19 a few minutes. If you have access to it right now,
20 I would ask let's print it out and let me ask the
21 witness some questions rather than waiting a month.
22 It makes no sense. I'm here, Jessie's here, and I
23 think that document is -- it's a single document.
24 It's very different than everything else that was
25 encompassed in your statement.

1 So if you have it right now, let's
2 print it out, no different than all the ones you've
3 printed out so far today. I can wait a few
4 minutes.

5 MR. WHEATON: That was my hope and I
6 requested that it be sent as soon as possible.
7 Unfortunately, I don't have these additional
8 materials yet. I don't anticipate having them
9 within the next few minutes. I do anticipate
10 having them within the next few days.

11 MR. PRAISS: I'm sorry to hear that.
12 With that in mind, I have no further questions.

13 THE REPORTER: Signature?

14 MR. DIERKER: We'll read and sign.

15 (Wherein, the taking of the instant
16 deposition ceased at 5:24 p.m.)

17 (Deposition to be read and signed by
18 the witness.)

19

20

21

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23

24

25

CERTIFICATE OF REPORTER

I, TARA SCHWAKE, a Registered Professional Reporter and Notary Public within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.





Notary Public in and for
The State of Missouri

1 ALARIS LITIGATION SERVICES

2

3 April 12, 2019

4

5 Mr. Robert Dierker
6 OFFICE OF THE CITY COUNSELOR
1200 Market Street, Room 314
7 St. Louis, Missouri 63103

8 IN RE: MALEEHA AHMAD, et al. v. CITY OF ST. LOUIS,
MISSOURI

9

Dear Mr. Dierker:

10

11 Please find enclosed your copies of the deposition of
12 ERIC LARSON taken on April 8, 2019 in the
13 above-referenced case. Also enclosed is the original
14 signature page and errata sheets.

15 Please have the witness read your copy of the
16 transcript, indicate any changes and/or corrections
17 desired on the errata sheets, and sign the signature
18 page before a notary public.

19

20 Please return the errata sheets and notarized
21 signature page within 30 days to our office at 711 N
22 11th Street, St. Louis, MO 63101 for filing.

23

Sincerely,

24

25

TARA SCHWAKE

26

Enclosures

1 ERRATA SHEET
2 Witness Name: ERIC LARSON
3 Case Name: MALEEHA AHMAD, et al. v. CITY OF ST. LOUIS,
4 MISSOURI
5 Date Taken: APRIL 8, 2019
6
7 Page #_____ Line #_____
8 Should read: _____
9 Reason for change: _____
10
11 Page #_____ Line #_____
12 Should read: _____
13 Reason for change: _____
14
15 Page #_____ Line #_____
16 Should read: _____
17 Reason for change: _____
18
19 Page #_____ Line #_____
20 Should read: _____
21 Reason for change: _____
22
23 Page #_____ Line #_____
24 Should read: _____
25 Reason for change: _____
26
27 Witness Signature: _____

1 STATE OF _____)

2

3 COUNTY OF _____)

4

5 I, ERIC LARSON, do hereby certify:

6 That I have read the foregoing deposition;

7 That I have made such changes in form

8 and/or substance to the within deposition as might

9 be necessary to render the same true and correct;

10 That having made such changes thereon, I

11 hereby subscribe my name to the deposition.

12 I declare under penalty of perjury that the

13 foregoing is true and correct.

14 Executed this _____ day of _____,

15 20____, at _____.

16

17

18

19

20

ERIC LARSON

21

22

23

NOTARY PUBLIC

24 My Commission Expires:

25

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